

6 MARCH 1985

W 079910.087

S.I.C.

99th CONGRESS  
1st Session

S. \_\_\_\_\_

-----  
IN THE SENATE OF THE UNITED STATES

Mr. Stevens introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_  
-----

A BILL

To amend title 5, United States Code, to establish a new  
retirement and disability plan for Federal employees, postal  
employees, and Members of Congress, and for other purposes.

1 Be it enacted by the Senate and House of Representatives  
2 of the United States of America in Congress assembled,  
3 That this Act may be cited as the "Civil Service Pension  
4 Reform Act of 1985".

5 PURPOSES

6 Sec. 2. The purposes of this Act are--

7 (1) to provide Federal employees with a retirement  
8 benefits plan which is comparable to good private sector  
9 retirement benefits plans;

10 (2) to promote financial stability and flexibility  
11 for the future of each Federal employee;

12 (3) to ensure a fully funded and financially sound

079910.087

S.I.C.

2

1 Federal Government retirement benefits plan;

2 (4) to enhance portability of retirement assets  
3 between Federal jobs and jobs outside the Federal  
4 Government;

5 (5) to increase the options of each Federal employee  
6 with respect to retirement benefits plans;

7 (6) to encourage Federal employees to increase  
8 personal savings;

9 (7) to include Federal employees in the investment  
10 decisionmaking process with respect to the assets of the  
11 retirement system; and

12 (8) to extend financial protection from disability to  
13 additional Federal employees and to increase such  
14 protection for eligible Federal employees.

15 TITLE I--CIVIL SERVICE PENSION SYSTEM

16 ESTABLISHMENT

17 Sec. 101. (a) Title 5, United States Code, is amended by  
18 inserting after chapter 83 the following new chapter:

19 ``CHAPTER 84--CIVIL SERVICE PENSION SYSTEM

``SUBCHAPTER I--DEFINITIONS; CIVIL SERVICE PENSION SYSTEM

``Sec.

``8401. Definitions.

``8402. Civil Service Pension System; participation.

``8403. Relationship to the Social Security Act.

``SUBCHAPTER II--BASIC PLAN

``8411. Entitlement.

``8412. Deferred retirement.

``8413. Computation of annuity.

079910.087

3

S.I.C.

- ``8414. Reduction for early retirement.
- ``8415. Reduction for survivor annuities.
- ``8416. Methods of Payments.
- ``8417. Funding.

#### ``SUBCHAPTER III--THRIFT SAVINGS PLAN

- ``8421. Contributions.
- ``8422. Vesting.
- ``8423. Entitlement and elections relating to entitlement.
- ``8424. Annuities: methods of payment; election; and computation.
- ``8425. Administrative provisions relating to payments and elections.
- ``8426. Thrift Savings Fund.
- ``8427. Investment of Thrift Savings Fund.
- ``8428. Accounting.

#### ``SUBCHAPTER IV--SURVIVOR BENEFITS

- ``8431. Basic plan benefits relating to death of a participant.
- ``8432. Basic plan benefits relating to death of a former participant.
- ``8433. Survivor benefits under the thrift savings plan.
- ``8434. Survivor benefits for former spouses: entitlements; amount.
- ``8435. Survivor benefits for former spouses: elections, deposits and collections, and administrative provisions.
- ``8436. Termination of entitlement.

#### ``SUBCHAPTER V--DISABILITY BENEFITS

- ``8441. Definitions.
- ``8442. Entitlement.
- ``8443. Computation of benefits.
- ``8444. Application.
- ``8445. Medical examinations.
- ``8446. Offers of alternative employment.
- ``8447. Recovery or restoration of earning capacity.
- ``8448. Relationship to workers' compensation.
- ``8449. National Guard technicians.
- ``8450. Funding.

#### ``SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

- ``8451. Responsibilities.
- ``8452. Cost-of-living adjustment in basic plan annuities, survivor annuities, and disability benefits.

079910.087

S.I.C.

4

- \*\*8453. Rate of benefits.
- \*\*8454. Accrual and termination of annuities.
- \*\*8455. Waiver, allotment, and assignment of benefits.
- \*\*8456. Application for benefits.
- \*\*8457. Court orders.
- \*\*8458. Annuities and pay on reemployment.

#### \*\*SUBCHAPTER VII--TRANSITION PROVISIONS

- \*\*8471. Elections.
- \*\*8472. Transfer participants.
- \*\*8473. Participants retaining entitlement in the Civil Service Retirement and Disability System.
- \*\*8474. Participants hired during temporary adjustment period.
- \*\*8475. Exemption from offset provision of the Social Security Act.
- \*\*8476. Regulations.

#### \*\*SUBCHAPTER VIII--CIVIL SERVICE THRIFT INVESTMENT BOARD

- \*\*8491. Establishment; membership.
- \*\*8492. Functions.
- \*\*8493. Powers of the Board.
- \*\*8494. Powers of the Executive Director.
- \*\*8495. Administrative provisions.
- \*\*8496. Fiduciary responsibilities; liability and penalty.

#### 1   \*\*SUBCHAPTER I--DEFINITIONS; CIVIL SERVICE PENSION SYSTEM

##### 2   \*\*§ 8401. Definitions

3       \*\*Except as otherwise provided in this chapter, for the  
4 purposes of this chapter--

5       "(1) the term 'account', when used with respect to a  
6 participant or annuitant, means an account established  
7 and maintained under section 8428(a) of this title;

8       "(2) the term 'annuitant' means a former participant  
9 who is entitled to an annuity under this chapter and who  
10 has applied under this chapter for the payment of the  
11 annuity to begin;



079910.087

5

S.I.C.

1       “(3) the term ‘average pay’, when used with respect  
2       to a participant, means the largest annual rate resulting  
3       from averaging the participant’s rates of basic pay in  
4       effect over any five consecutive years of creditable  
5       service or, in the case of an annuity under this chapter  
6       based on service of less than five years, over the total  
7       service, with each rate weighted by the time it was in  
8       effect;

9       “(4) the term ‘basic pay’, when used with respect to  
10      a participant--

11       “(A) means the lesser of--

12       “(i) the basic pay of the participant  
13       established pursuant to law, without regard to  
14       any provision of law limiting the rate of pay  
15       actually payable in any pay period (including any  
16       provision of law restricting the use of  
17       appropriated funds); or

18       “(ii) the rate of basic pay payable for  
19       level I of the Executive Schedule; and

20       “(B) includes the items described in  
21       subparagraphs (A) through (D) of paragraph (3) of  
22       section 8331 of this title and does not include the  
23       items excluded by such paragraph;

24       “(5) the term ‘Board’ means the Civil Service Thrift  
25       Investment Board established by section 8491(a) of this

079910.087

S.I.C.

6

1 title;

2 "(6) the term 'Civil Service Retirement and  
3 Disability Fund' means the Civil Service Retirement and  
4 Disability Fund referred to in section 8348 of this  
5 title;

6 "(7) the term 'court', when used with respect to a  
7 judgment, decree, order, or other judicial action, means  
8 any court of the United States, a State, the District of  
9 Columbia, the Commonwealth of Puerto Rico, or a territory  
10 or possession of the United States, or any Indian court,  
11 having jurisdiction to issue such judgment, decree, or  
12 order or to take such other judicial action;

13 "(8) the term 'Director' means the Director of the  
14 Office of Personnel Management;

15 "(9) the term 'dynamic assumptions' means economic  
16 assumptions that are used in determining actuarial costs  
17 and liabilities of a retirement system and anticipate the  
18 effects of long-term future--

19 "(A) investment yields,

20 "(B) increases in rates of basic pay, and

21 "(C) rates of inflation;

22 "(10) the term 'earning', when used with respect to  
23 the Thrift Savings Fund, means the amount of the gain  
24 realized or yield received from the investment of sums in  
25 such fund;

079910.087

7

S.I.C.

1       “(11) the term ‘eligible former spouse’, when used  
2       with respect to a participant or former participant,  
3       means a former spouse of the participant or former  
4       participant if--

5               “(A) the participant or former participant  
6       performed at least 18 months of civilian service  
7       covered under this chapter as a participant or  
8       subchapter III of chapter 83 of this title; and

9               “(B) the former spouse was married to the  
10      participant or former participant for at least 9  
11      months;

12      “(12) the term ‘employee’ means--

13              “(A) each individual referred to in  
14      subparagraphs (A), (E), (F), (H), (I), and (J) of  
15      section 8331(1) of this title; and

16              “(B) a Congressional employee as defined in  
17      section 2107 of this title, including a temporary  
18      Congressional employee;

19      any of whose service after December 31, 1983, is  
20      employment for the purposes of title II of the Social  
21      Security Act and chapter 21 of the Internal Revenue Code  
22      of 1954, except that such term does not include any  
23      individual referred to in clause (i), (v), (vi), or (ix)  
24      of paragraph (1) of section 8331 of this title or in the  
25      undesignated material after clause (ix) of such

079910.087

S.I.C.

8

1 paragraph, any individual excluded under section  
2 8402(b)(2) of this title, or any individual who was  
3 subject to subchapter III of chapter 83 of this title on  
4 December 31, 1983, and has not elected to transfer to the  
5 System or to commence participation in the System  
6 pursuant to section 8471(a) of this title;

7 "(13) the term 'Executive Director' means the  
8 Executive Director of the Board;

9 "(14) the term 'firefighter' has the same meaning  
10 provided in section 8331(21) of this title;

11 "(15) the term 'Fund' means the Civil Service  
12 Retirement and Disability Fund;

13 "(16) the term 'Government' has the same meaning  
14 provided in section 8331(7) of this title;

15 "(17) the term 'law enforcement officer' has the  
16 same meaning provided in section 8331(20) of this title;

17 "(18) the term 'loss', when used with respect to the  
18 Thrift Savings Fund, means the amount of the loss  
19 realized from the investment of sums in such fund;

20 "(19) the term 'lump-sum credit' has the same  
21 meaning as provided by section 8331(8) of this title;

22 "(20) the term 'Member' has the same meaning as  
23 provided by section 2106 of this title, except that such  
24 term does not include a Member who was subject to  
25 subchapter III of chapter 83 of this title on December

079910.087

S.I.C.

9

1 31, 1983, and has not elected to transfer to the System  
2 or to commence participation in the System pursuant to  
3 section 8471(a) of this title;

4 "(21) the term 'net earnings' means the excess of  
5 earnings over losses;

6 "(22) the term 'net losses' means the excess of  
7 losses over earnings;

8 "(23) the term 'normal cost', when used with respect  
9 to an annuity of a participant, means the entry-age  
10 normal cost of the annuity, computed by the Office in  
11 accordance with generally accepted actuarial practice and  
12 standards (using dynamic assumptions) and expressed as a  
13 level percentage of the basic pay of the participant;

14 "(24) the term 'Office' means the Office of  
15 Personnel Management;

16 "(25) the term 'participant' means an employee or  
17 Member;

18 "(26) the term 'price index' has the same meaning as  
19 provided in section 8331(15) of this title;

20 "(27) the term 'service', when used with respect to  
21 a participant or former participant, means employment of  
22 the participant or former participant (while a  
23 participant) that would be creditable under section 8332  
24 of this title if the participant or annuitant were  
25 subject to subchapter III of chapter 83 of this title

079910.087

S.I.C.

10

1 instead of this chapter (and is not credited for the  
2 purposes of the application of such subchapter to the  
3 participant or former participant);

4 "(28) the term 'supplemental liability', when used  
5 with respect to a fiscal year, means the estimated excess  
6 of--

7 "(A) the sum of--

8 "(1) the present value of all benefits  
9 payable from the Fund after such fiscal year to  
10 participants and former participants, and to  
11 their survivors, under this chapter, computed in  
12 accordance with generally accepted actuarial  
13 practice and standards (using dynamic  
14 assumptions),

15 "(11) the excess of the amount of the  
16 administrative expenses incurred by the Office in  
17 carrying out this chapter during such fiscal year  
18 over the amount of the administrative expenses  
19 estimated for such fiscal year for the purposes  
20 of clause (iii) of this paragraph at the end of  
21 the preceding fiscal year; and

22 "(iii) the estimated amount of the  
23 administrative expenses that the Office will  
24 incur in carrying out this chapter during the  
25 ensuing fiscal year; over

079913.087

S.I.C.

11

1           “(B) the sum of--

2               “(1) the total amount of the contributions  
3           made on behalf of participants pursuant to  
4           section 8417(a) of this title;

5               “(11) the present value of the contributions  
6           to be made on behalf of participants pursuant to  
7           such section 8417(a);

8               “(111) the amount of the net earnings from  
9           investment of sums contributed on behalf of  
10          participants pursuant to such section 8417(a);  
11          and

12               “(iv) the present value of the amount of the  
13          net earnings expected to be realized from  
14          investment of sums contributed on behalf of  
15          participants pursuant to such section 8417(a);  
16          and

17          “(29) the term ‘System’ means the Civil Service  
18          Pension System described in section 8402(a) of this  
19          title.

20          “§ 8402. Civil Service Pension System; participation

21          “(a) The provisions of this chapter comprise the Civil  
22          Service Pension System.

23          “(b)(1) Except as provided in paragraph (2) of this  
24          subsection, each employee and Member shall be a participant  
25          in the System.

079910.087

S.I.C.

12

1     “(2)(A) The Office may exclude from the operation of  
2 this chapter an employee or group of employees in or under an  
3 Executive agency whose employment is temporary or  
4 intermittent, except an employee who occupies a position as  
5 part-time career employment (as defined in section 3401(2) of  
6 this title).

7     “(B) The Architect of the Capitol may exclude from the  
8 operation of this chapter an employee under the Office of the  
9 Architect of the Capitol whose employment is temporary or of  
10 uncertain duration.

11     “(C) The Librarian of Congress may exclude from the  
12 operation of this chapter an employee under the Library of  
13 Congress whose employment is temporary or of uncertain  
14 duration.

15     “§ 8403. Relationship to the Social Security Act

16     “Except as otherwise provided in this chapter, the  
17 benefits payable under the System are in addition to the  
18 benefits payable under the Social Security Act.

19             “SUBCHAPTER II--BASIC PLAN

20     “§ 8411. Entitlement

21     “(a) An employee or a Member who is separated from  
22 employment by the Federal Government after becoming 55 years  
23 of age and completing 30 years of service is entitled to an  
24 immediate annuity.

25     “(b) An employee or a Member who is separated from



079919.087

13

S.I.C.

1 employment by the Federal Government after becoming 62 years  
2 of age and completing 10 years of service is entitled to an  
3 immediate annuity.

4     “(c) An employee who is separated from employment by the  
5 Federal Government after becoming 55 years of age and  
6 completing 25 years of service as a law enforcement officer  
7 or firefighter, or any combination of such service totaling  
8 at least 25 years, is entitled to an immediate annuity.

9     “(d) An employee who is separated from employment by the  
10 Federal Government after becoming 55 years of age and  
11 completing 25 years as an air traffic controller is entitled  
12 to an immediate annuity.

13     “(e)(1) For the purposes of this subsection--

14         “(A) the term ‘military technician’ means a member  
15 of the reserve components of the Armed Forces who is  
16 assigned to a civilian position as a technician in the  
17 administration and training of the reserve components of  
18 the Armed Forces or the maintenance and repair of  
19 supplies issued to the reserve components of the Armed  
20 Forces; and

21         “(B) the term ‘reserve components of the Armed  
22 Forces’ means the reserve components of the Armed Forces  
23 specified in section 261(a) of title 10.

24     “(2) A military technician who is separated from  
25 employment by the Federal Government after becoming 55 years

079910.087

S.I.C.

14

1 of age and completing 30 years of service is entitled to an  
2 immediate annuity.

3       “(f)(1) Except as provided in paragraph (2) of this  
4 subsection, any employee who has completed 25 years of  
5 service, or is not less than 50 years of age and has  
6 completed 20 years of service, and who--

7           “(A) is separated from employment by the Federal  
8 Government involuntarily, except by removal for cause on  
9 charges of misconduct or delinquency; or

10          “(B) while serving in a geographic area designated  
11 by the Director, is voluntarily separated from employment  
12 by the Federal Government during a period that--

13           “(i) the agency in which the employee is serving  
14 is undergoing a major reorganization, a major  
15 reduction in force, or a major transfer of function;  
16 and

17           “(ii) a significant percentage of the total  
18 number of employees serving in such agency will be  
19 separated or subject to an immediate reduction in the  
20 rate of basic pay (without regard to subchapter VI of  
21 chapter 53 of this title or comparable provisions);  
22 as determined by the Director, is entitled to an immediate  
23 annuity.

24       “(2) An employee described in paragraph (1)(A) of this  
25 subsection is not entitled to an annuity under this

079910.087

15

S.I.C.

1 subsection if the employee has declined a reasonable offer of  
2 another position in the employee's agency for which the  
3 employee is qualified and the offered position is not lower  
4 than two grades (or pay levels) below the employee's grade  
5 (or pay level) and is within the employee's commuting area.

6     "(g) An annuity authorized by this section is computed  
7 under sections 8413 through 8415 of this title.

8     "\$ 8412. Deferred retirement

9     "(a) A participant who is under 62 years of age and  
10 separates from employment by the Federal Government after  
11 completing 10 years of civilian service is entitled to an  
12 annuity beginning on the date the participant becomes 62  
13 years of age.

14     "(b) An annuity authorized by this section is computed  
15 under sections 8413 through 8415 of this title.

16     "\$ 8413. Computation of annuity

17     "(a)(1) Except as provided in section 8414 or 8415 of  
18 this title, the amount of the annuity a former participant is  
19 entitled to receive under this subchapter shall be equal to  
20 the product of 0.85 percent of the former participant's  
21 average pay (while serving as an employee or Member)  
22 multiplied by the participant's total service.

23     "(2) For the purposes of computing the amount of an  
24 annuity under paragraph (1) of this subsection, the total  
25 service of a participant who separates from employment by the

079910.087

S.I.C.

16

1 Federal Government entitled to an immediate annuity or who  
2 dies leaving a survivor or survivors entitled to a survivor  
3 annuity includes the days of unused sick leave credited to  
4 the participant under a formal leave system.

5     “(b)(1) Except as provided in section 8415 of this  
6 title, a former participant who is entitled to receive an  
7 annuity under subsection (c) or (d) of section 8411 of this  
8 title and is under 62 years of age on the date the annuity  
9 commences shall be entitled to receive an annuity supplement,  
10 in addition to the amount of the annuity computed under  
11 subsection (a) of this section, while under such age.

12     “(2) The amount of the annuity supplement payable to a  
13 former participant under paragraph (1) of this subsection  
14 shall be equal to the amount of the benefits that--

15         “(A) the former participant would be entitled to  
16 receive under title II of the Social Security Act if the  
17 participant were 62 years of age on the date the annuity  
18 referred to in such paragraph commences; and

19         “(B) is attributable to service referred to in  
20 section 8411(c), 8411(d), or 8411(e) of this title, as  
21 applicable,

22 increased as provided in paragraph (3) of this subsection.

23     “(3) Effective on January 1 of each year, the amount of  
24 the annuity supplement computed under paragraph (2) of this  
25 subsection shall be increased by the percent increase, if

1 any, in the SSA average wage index (as defined in section  
2 215(1)(1)(G) of the Social Security Act) published for  
3 November of the preceding year over such index published for  
4 November of the next preceding year.

5 ``S 8414. Reduction for early retirement

6 `` (a) The annuity computed under section 8413(a) of this  
7 title (without regard to this section or section 8415 of this  
8 title)--

9 `` (1) for a participant who is separating from  
10 employment by the Federal Government entitled to an  
11 immediate annuity, other than a participant referred to  
12 in paragraph (2) of this section, shall be reduced by  
13 one-sixth of one percent for each full month the  
14 participant is under 62 years of age on the date of  
15 separation; and

16 `` (2) for a participant who is separating from  
17 employment by the Federal Government entitled to an  
18 immediate annuity under section 8411(f) of this title and  
19 who--

20 `` (A) has been a law enforcement officer,  
21 firefighter, or air traffic controller for the years  
22 of service qualifying the participant for an  
23 immediate annuity under such section 8411(f), or

24 `` (B) is a military technician (as defined in  
25 section 8411(e)(1)(A) of this title) when separated,

shall be reduced by one-sixth of one percent for each full month the participant is under 55 years of age on the date of separation.

§ 8415. Reduction for survivor annuities

(a) The annuity of a former participant computed under section ~~8413~~ 8413 of this title (including an annuity supplement computed under subsection (b) of such section) and, if appropriate, under section 8414 of this title shall be reduced by the appropriate amount such that the total amount of the retirement benefits expected to be payable to the former participant under this subchapter and all survivor benefits expected to be payable with respect to the former participant pursuant to sections 8432 and 8434 of this title is equal to the total amount of the retirement benefits that would be expected to be payable under this subchapter to the former participant pursuant to the method referred to in section 8416(b)(1) of this title, determined in accordance with generally accepted actuarial principles and standards.

(b) A reduction in the annuity of a former participant pursuant to subsection (a) of this section shall be adjusted, as appropriate to carry out such subsection, to reflect any election made pursuant to subsection (b), (c), or (d) of section 8435 of this title.

§ 8416. Methods of Payment

(a)(1) The Office shall prescribe methods of payment of annuities under this subchapter.

079910.P87

S.I.C.

19

1       “(2) The Office shall include among the methods of  
2 payment prescribed under paragraph (1) of this subsection--

3           “(A) a method providing for the payment of a monthly  
4 annuity only to a former participant entitled to the  
5 annuity during the life of the former participant; and

6           “(B) a method providing for the payment of a monthly  
7 annuity for the joint lives of a former participant and  
8 the spouse of the former participant and the life of the  
9 one of them who survives the other of them.

10       “(b) Subject to section 8432 of this title--

11           “(1) under such regulations as the Office shall  
12 prescribe, each former participant shall elect one of the  
13 methods of payment prescribed by the Office under  
14 subsection (a) of this section; and

15           “(2) the annuity of the former participant under  
16 this subchapter shall be paid in accordance with the  
17 method of payment elected by the former participant  
18 pursuant to paragraph (1) of this subsection.

19       “§ 8417. Funding

20           “(a)(1) The employing agency of a participant shall  
21 contribute to the Fund for each participant employed by the  
22 agency an amount equal to the normal cost of an annuity under  
23 this subchapter for such participant.

24           “(2) The contribution required by paragraph (1) of this  
25 subsection to be made for a participant shall be made from

079910.087

S.I.C.

20

1 the appropriation or fund used to pay the participant, or, in  
2 the case of an elected participant, from an appropriation or  
3 fund available for payment of other salaries of the office or  
4 establishment of the participant. In the case of a  
5 participant in the legislative branch who is paid by the  
6 Clerk of the House of Representatives, contributions for the  
7 benefit of such participant shall be paid from the contingent  
8 fund of the House of Representatives.

9 "(b)(1) The Office of shall compute--

10 "(A) the amount of the supplemental liability of the  
11 Fund relating to participants and former participants  
12 other than participants and former participants referred  
13 to in subparagraph (B) of this paragraph, and

14 "(B) the amount of the supplemental liability of the  
15 Fund relating to participants and former participants who  
16 are active or retired officers or employees of the United  
17 States Postal Service,

18 as of the close of each fiscal year beginning after September  
19 30, 1985.

20 "(2) The amounts of any supplemental liability--

21 "(A) computed pursuant to paragraph (1) (A) of this  
22 subsection with respect to participants and former  
23 participants referred to in such paragraph (1) (A) of  
24 this subsection, and

25 "(B) computed pursuant to paragraph (1) (B) of this



879910.887

S.I.C.

21

1 subsection with respect to participants and former  
2 participants referred to in such paragraph (1) (B),  
3 shall each be amortized in thirty annual installments.

4 "(3) At the end of each fiscal year, the Office shall  
5 notify--

6 "(A) the Secretary of the Treasury of the amount of  
7 the annual installment computed under paragraph (2) (A)  
8 of this subsection for such fiscal year, and

9 "(B) the Postmaster General of the United States of  
10 the amount of the annual installment computed pursuant to  
11 paragraph (2) (B) of this subsection for such fiscal  
12 year.

13 "(4)(A) Before closing the accounts for a fiscal year,  
14 the Secretary of the Treasury shall credit the amount of the  
15 annual installment computed for such fiscal year pursuant to  
16 paragraph (2) (A) to the Fund, as a Government contribution,  
17 out of any money in the Treasury of the United States not  
18 otherwise appropriated.

19 "(B) Upon receiving a notice required by paragraph (3)  
20 (B) of this subsection, the United States Postal Service  
21 shall pay the amount of the annual installment specified in  
22 the notice. The amount paid shall be credited to the Fund.

23 "SUBCHAPTER III--THRIFT SAVINGS PLAN

24 "§ 8421. Contributions

25 "(a)(1) Each participant may contribute to the Thrift

079910.087

S.I.C.

22

1 Savings Fund in any fiscal year any amount not exceeding ten  
2 percent of the participant's annual rate of basic pay.

3     "(2) Each former participant receiving disability  
4 benefits under subchapter V of this chapter may, until  
5 becoming 62 years of age, contribute to the Thrift Savings  
6 Fund in any fiscal year any amount not exceeding ten percent  
7 of the amount of the former participant's disability benefits  
8 payable under such subchapter during such fiscal year.

9     "(3) Any contribution under this subsection shall be  
10 made only pursuant to a program of regular contributions to  
11 be made at the end of each pay period of the participant, or  
12 at the end of each disability benefits payment period in the  
13 case of a disabled former participant, under such regulations  
14 as the Board shall prescribe.

15     "(4) At least once each year, a participant or former  
16 participant may modify the amount contributed pursuant to  
17 paragraph (1) or (2) of this subsection, as the case may be.

18     "(b) The employing agency of a participant who  
19 contributes to the Thrift Savings Fund under subsection (a)  
20 of this section for any pay period, or, in the case of a  
21 disabled former participant who contributes to such fund  
22 under such subsection for any disability benefits payment  
23 period, the employing agency of the former participant on the  
24 date of onset of the disability, shall contribute to the  
25 Thrift Savings Fund for the benefit of such participant or

079910.087

23

S.I.C.

1 disabled former participant at the end of such period an  
2 amount equal to twice such portion of the amount of the  
3 contribution of the participant or former participant as does  
4 not exceed four percent of the amount of the gross pay or  
5 gross disability benefits, as the case may be, payable for  
6 such period.

7     “(c) The sums required to be contributed to the Thrift  
8 Savings Fund by an employing agency under subsection (b) of  
9 this section for the benefit of a participant or disabled  
10 former participant shall be paid from the appropriations or  
11 funds available to such agency to pay the basic pay of  
12 participants or, in the case of an elected participant, from  
13 an appropriation or fund available for payment of other  
14 salaries of the participant's office or establishment. In the  
15 case of a participant in the legislative branch who is paid  
16 by the Clerk of the House of Representatives, contributions  
17 for the benefit of such participant shall be paid from the  
18 contingent fund of the House of Representatives.

19     “(d) For purposes of the Internal Revenue Code of 1954--

20         “(1) any amount of the participant's pay which is  
21 contributed to the Thrift Savings Fund and the amount of  
22 the employing agency's matching contributions shall not  
23 be included in the gross income of the participant, and

24         “(2) the Thrift Savings Fund shall be treated, for  
25 purposes of determining when amounts in such Fund are

079910.087

24

S.I.C.

1 included in the income of any participant, as described  
2 in section 401(a) of such Code.

3 ``§ 8422. Vesting

4 `` (a)(1) A participant who separates from employment by  
5 the Government shall be entitled to an amount equal to--

6 `` (A) the sum of the total amount of the  
7 contributions made under section 8421(a) of this title  
8 and the total amount of the net earnings in the Thrift  
9 Savings Fund attributable to such contributions; and

10 `` (B) the applicable percentage of the sum of the  
11 total amount contributed to the Thrift Savings Fund for  
12 the benefit of the participant under section 8421(b) of  
13 this title and the total amount of the net earnings in  
14 the Thrift Savings Fund attributable to such  
15 contributions, as provided in subsection (b) of this  
16 section.

17 `` (2) The amount to which a participant is entitled under  
18 paragraph (1) of this subsection shall be payable in  
19 accordance with the election made by the participant pursuant  
20 to section 8423 of this title.

21 `` (b)(1) For the purpose of subsection (a)(1)(B) of this  
22 section, except as provided in paragraph (2) of this  
23 subsection, the applicable percentage for a participant  
24 separating from employment by the Government after having  
25 been a participant in the System for a period set forth under

079910.087

S.I.C.

25

1 column I of the table below is the percentage set forth under  
 2 column II of the table below opposite the description of such  
 3 period:

<u>Column I</u>	<u>Column II</u>
Period for which the participant has been a participant in the System:	Applicable percentage:
Less than 2 years . . . . .	0
Not less than 2 years, but less than 3 years. . . . .	25
Not less than 3 years, but less than 4 years. . . . .	50
Not less than 4 years, but less than 5 years. . . . .	75
Not less than 5 years . . . . .	100.

4       “(2) For the purposes of subsection (a)(1)(B) of this  
 5 section, the percentage applicable in the case of any  
 6 participant who dies while employed by the Government shall  
 7 be 100 percent.

8       “§ 8423. Entitlement and elections relating to entitlement

9       “(a) Any participant who separates from employment by  
 10 the Government entitled to an immediate annuity under section  
 11 8411 of this title is entitled and may elect--

12       “(1) to receive an immediate annuity from the Thrift  
 13 Savings Fund;

14       “(2) to defer the commencement of the payment of an  
 15 annuity from the Thrift Savings Fund until such date as  
 16 the participant specifies;

17       “(3) to withdraw, in one payment, the amount of the  
 18 balance credited to the participant's account in the  
 19 Thrift Savings Fund as of such date; or

20       “(4) to transfer the amount of the balance in the

079910.087

26

S.I.C.

1 account to an individual retirement account or other  
2 qualified plan (within the meaning of the Internal  
3 Revenue Code of 1954) of the participant.

4 "(b) Subject to section 8425(d) of this title, any  
5 participant who separates from employment by the Government  
6 before becoming entitled to an immediate annuity under  
7 section 8411 of this title is entitled and may elect--

8 "(1) to receive an annuity from the Thrift Savings  
9 Fund commencing when the participant becomes 62 years of  
10 age;

11 "(2) to withdraw, in one payment, the amount of the  
12 balance credited to the participant's account in the  
13 Thrift Savings Funds (subject to the limitations set out  
14 in section 8422(a)(1) of this title), payable when the  
15 participant becomes 62 years of age; or

16 "(3) to transfer such amount to an individual  
17 retirement account or other qualified plan (within the  
18 meaning of the Internal Revenue Code of 1954) of the  
19 participant.

20 "(c)(1) Subject to paragraph (2) of this subsection, any  
21 participant making an election pursuant to subsection (a)(2)  
22 of this section may modify the date specified in the  
23 election.

24 "(2) Any modification under paragraph (1) of this  
25 subsection may not specify a date for the commencement of

1 annuity payments earlier than one month after the date such  
2 modification is filed with the Board.

3       “(d)(1) Notwithstanding any other provision of this  
4 section, except as provided in paragraph (2) of this  
5 subsection, a participant who has transferred to the System  
6 under section 8471(a)(1) of this title shall not be entitled  
7 to receive benefits under this section, other than an  
8 immediate annuity under subsection (a)(1) of this section or  
9 a deferred annuity under subsection (b)(1) of this section,  
10 before the date five years after the date the participant  
11 commenced participation in the System.

12       “(2) Paragraph (1) of this subsection shall not apply in  
13       the case of a deceased participant or a person who is  
14       disabled for the purposes of subchapter V of this title.

15    "§ 8424. Annuities: methods of payment; election; and  
16                   computation

17       “(a)(1) The Board shall prescribe methods of payment of  
18   annuities under this subchapter.

19       “(2) The Board shall include among the methods of  
20 payment prescribed under paragraph (1) of this subsection--

21           “(A) a method providing for the payment of a monthly  
22           annuity only to a former participant during the life of  
23           the former participant;

24           "(B) a method providing for the payment of a monthly  
25           annuity for the joint lives of a former participant and

079910.087

S.I.C.

28

1 the spouse of the former participant and the life of the  
2 one of them who survives the other of them;

3 "(C) a method described in subparagraph (A) of this  
4 paragraph providing for annual increases in the amount of  
5 the annuity payable; and

6 "(D) a method described in subparagraph (B) of this  
7 paragraph providing for annual increases in the amount of  
8 the annuity payable.

9 "(b) Under such regulations as the Board shall  
10 prescribe, each former participant electing under section  
11 8423 (b) of this title to receive an annuity from the Thrift  
12 Savings Fund shall elect one of the methods of payment  
13 prescribed by the Board under subsection (a) of this section.

14 "(c)(1) Subject to paragraph (2) of this subsection, the  
15 amount of the annuity payable under this subchapter to a  
16 former participant pursuant to the method elected under  
17 subsection (b) of this section shall be determined, as of the  
18 date on which the payment of the annuity under the elected  
19 method commences, in accordance with generally accepted  
20 actuarial principles and standards based on the balance in  
21 the annuitant's account on such date.

22 "(2) The total amount of all retirement benefits  
23 expected to be payable to a former participant under this  
24 subchapter and all survivor benefits expected to be payable  
25 with respect to the former participant pursuant to an



079910.087

S.I.C.

29

1 election made under subsection (b) of this section and  
2 pursuant to section 8434 of this title shall be equal to the  
3 total amount of the retirement benefits that would be  
4 expected to be payable under this subchapter to the former  
5 participant pursuant to the method referred to in subsection  
6 (a)(2)(A) of this section, determined in accordance with  
7 generally accepted actuarial principles and standards.

8       “(3) The amount of the annuity payable to a former  
9 participant under this subchapter shall be redetermined if--

10           “(A) an individual entitled to a survivor annuity  
11 pursuant to an election made under subsection (c) of this  
12 section or pursuant to section 8434 of this title dies or  
13 loses the entitlement to the survivor annuity; or

14           “(B) the former participant makes an election  
15 pursuant to section 8435 of this title.

16       “(d) At the end of each fiscal year, the investment  
17 experience relating to the account of each annuitant in the  
18 Thrift Savings Fund shall be compared to the actuarial  
19 assumptions that were used to compute the amount of the  
20 annuity payable from the Thrift Savings Fund to the annuitant  
21 under this subchapter during such fiscal year. Under  
22 regulations issued by the Board, the excess of the amount of  
23 the return, if any, over the amount of the assumed return  
24 shall be used to purchase an additional annuity payable from  
25 the Thrift Savings Fund. The amount of the additional annuity

079910.087

30

S.I.C.

1 shall be computed by the Board in accordance with generally  
2 accepted actuarial principles and standards.

3 ``§ 8425. Administrative provisions relating to payments and  
4 elections

5 `` (a) The Board shall make payments and transfers in  
6 accordance with an election of a participant under section  
7 8423 or 8424(b) of this title.

8 `` (b) Any election under section 8423 or 8424 of this  
9 title shall be in writing and shall be filed with the Board  
10 in accordance with such rules as the Board may prescribe.

11 `` (c) Notwithstanding any other provision of this  
12 section, an election or modification of an election under any  
13 provision of this subchapter shall not be effective if the  
14 election or modification would result in a violation of the  
15 terms of an applicable court decree of divorce, annulment, or  
16 legal separation, or the terms of any court order or court-  
17 approved property settlement agreement incident to a court  
18 decree of divorce, annulment, or legal separation, as  
19 determined by the Executive Director.

20 `` (d)(1) A participant may make an election authorized by  
21 paragraph (2) or (3) of section 8423(b) of this title--

22 `` (A) only if the spouse and each eligible former  
23 spouse of the participant are notified of the  
24 participant's election; and

25 `` (B) in any case in which there is an eligible

079910.087

S.I.C.

31

1 former spouse, shall be subject to the terms of a court  
2 order or decree issued with respect to such former spouse  
3 if--

4 "(1) the order or decree expressly relates to  
5 any portion of the amount involved, and

6 "(11) payment of the amount in accordance with  
7 the election would extinguish entitlement of the  
8 former spouse to a survivor annuity under section  
9 8434 of this title or to any portion of an annuity  
10 under section 8457 of this title.

11 "(2)(A) Notification of a spouse or eligible former  
12 spouse under this subsection shall be made in accordance with  
13 such requirements as the Board shall by regulation prescribe.

14 "(B) Under the regulations, the Board may provide that  
15 paragraph (1)(A) of this subsection may be waived with  
16 respect to a spouse or eligible former spouse if the  
17 participant establishes to the satisfaction of the Board that  
18 the location of such spouse or former spouse cannot be  
19 determined.

20 "(3) The Board shall prescribe regulations under which  
21 this subsection shall be applied in any case in which the  
22 Office receives two or more applicable court orders or  
23 decrees.

24 "\$ 8426. Thrift Savings Fund

25 "(a) There is established in the Treasury of the United

079910.087

S.I.C.

32

1 States a Thrift Savings Fund.

2       “(b) The Thrift Savings Fund consists of the sum of all  
3 amounts contributed under section 8421 of this title  
4 increased by the total net earnings from investments of sums  
5 in the Thrift Savings Fund or reduced by the total net losses  
6 from investments of the Thrift Savings Fund.

7       “(c) The sums in the Thrift Savings Fund are  
8 appropriated and shall remain available without fiscal year  
9 limitation--

10           “(1) to invest under section 8427 of this title;

11           “(2) to pay benefits under this subchapter;

12           “(3) to pay the administrative expenses of the  
13 Board; and

14           “(4) to make loans to participants as provided in  
15 subsection (e) of this section.

16       “(d)(1) Except as provided in paragraph (2) of this  
17 subsection, sums in the Thrift Savings Fund are not subject  
18 to execution, levy, attachment, garnishment, or other legal  
19 process.

20       “(2) Moneys due or payable from the Thrift Savings Fund  
21 to any individual shall be subject to legal process for the  
22 enforcement of the individual's legal obligations to provide  
23 child support or make alimony payments as provided in section  
24 459 of the Social Security Act (42 U.S.C. 659).

25       “(e) Under such regulations as the Board shall

079910.087

33

S.I.C.

1 prescribe, the Board may make loans from the Thrift Savings  
2 Fund to a participant in case of hardship.

3 "(f) The sums in the Thrift Savings Fund shall not be  
4 appropriated and may not be used for any purpose other than  
5 the purposes specified in this section.

6 "§ 8427. Investment of Thrift Savings Fund .

7 "(a) Subject to subsections (b), (c), and (d) of this  
8 section, the Board--

9 "(1) may invest the sums available in the Thrift  
10 Savings Fund for investment--

11 "(A) in interest-bearing securities of the  
12 United States Government;

13 "(B) in interest-bearing securities of any State  
14 or a political subdivision thereof;

15 "(C) in interest-bearing or equity securities of  
16 any private business concern;

17 "(D) in real estate; and

18 "(E) in any other assets the Board considers  
19 appropriate; and

20 "(2) shall determine the appropriate distribution of  
21 investments among the assets listed under paragraph (1)  
22 of this subsection.

23 "(b)(1) Except as provided in subsection (c) or (d) of  
24 this section, once each year, a participant or former  
25 participant may elect the general type or types of

079910.087

S.I.C.

34

1 investments, as designated by the Board under section  
2 8492(a)(2) of this title, into which the Board shall invest  
3 sums in the Fund credited to the account of such participant  
4 or former participant and the distribution of such sums among  
5 the types of investments elected.

6     “(2) The election of a participant or former participant  
7 under paragraph (1) of this subsection shall be made in  
8 accordance with rules prescribed by the Board and within such  
9 period after the date the participant's or former  
10 participant's annual statement is transmitted to the  
11 participant or former participant pursuant to section 8428(c)  
12 of this title as the Board shall prescribe in such rules.

13     “(c)(1) At the end of the first calendar month during  
14 which title I of the Civil Service Pension Reform Act of 1985  
15 takes effect, the amounts contributed by a participant to the  
16 Thrift Savings Fund under section 8421(a) of this title and  
17 the amounts contributed to such fund for the benefit of such  
18 participant under section 8421(b) of this title shall be  
19 invested in interest-bearing securities of the United States  
20 Government.

21     “(2)(A) The Board shall invest a percentage of the total  
22 amount that--

23         “(1) is contributed to the Thrift Savings Fund by a  
24 participant under section 8421(a) of this title during a  
25 month described under column I of the table of

079910.087

S.I.C.

35

1 distribution of investments set out in subparagraph (B)  
2 of this paragraph, and

3 "(11) is available for investment,  
4 in interest-bearing securities of the United States  
5 Government, as specified under column II of the table  
6 opposite the description of such month.

7 "(B) For the purposes of subparagraph (A) of this  
8 paragraph, the table of distribution of investments is as  
9 follows:

"Column I  
Number of the month  
after the month des-  
cribed in paragraph  
(1) of this  
subsection:

Column II  
Minimum percentage  
of the contribu-  
tions made by  
a participant for  
the month to  
be invested in  
United States  
Government  
securities:

1 through 12	100
13 through 24	75
25 through 36	50
37 through 48	25.

10 "(3)(A) The Board shall invest a percentage of the total  
11 amount that--

12 "(1) is contributed to the Thrift Savings Fund by  
13 the Government for the benefit of a participant pursuant  
14 to section 8421(b) of this title during a month described  
15 under column I of the table of distribution of  
16 investments set out in subparagraph (B) of this  
17 paragraph, and

079910.087

S.I.C.

36

1           “(11) is available for investment,  
 2 in interest-bearing securities of the United States  
 3 Government, as specified under column II of the table  
 4 opposite the description of such month.  
 5           “(B) For the purposes of subparagraph (A) of this  
 6 paragraph, the table of distribution of investments is as  
 7 follows:

<u>Column I</u>	<u>Column II</u>
Number of the month after the month des- cribed in paragraph (1) of this subsection:	Minimum percentage of the contribu- tions made for the benefit of a participant for the month to be invested in United States Government securities:
1 through 60	100
61 through 72	87.5
73 through 84	75
85 through 96	62.5
97 through 108	50
109 through 120	37.5
121 through 132	25
133 through 144	12.5

8           “(4) All sums credited to the Thrift Savings Fund  
 9 pursuant to section 8472(a) or 8474(b) of this title shall be  
 10 invested in interest-bearing securities of the United States  
 11 Government.  
 12           “(5) The sums invested in interest-bearing securities of  
 13 the United States Government as required by this subsection  
 14 and returned to the Thrift Savings Fund after maturity of the  
 15 securities, and the amounts earned on the investment of such



079910.087

S.I.C.

37

1 sums, shall be reinvested in interest-bearing securities of  
2 the United States Government.

3     “(d) In investing sums in the Thrift Savings Fund in  
4 equity securities of private businesses the Board shall not  
5 acquire such an extensive ownership interest in any private  
6 business that the Board, without the concurrence of other  
7 owners of the private business, can elect any officer of the  
8 private business or require the adoption of any policy for  
9 the management of the private business.

10     “§ 8428. Accounting

11     “(a)(1) The Board shall establish and maintain an  
12 account for each participant making contributions under  
13 section 8421(a) of this title.

14     “(2) The balance in the account of a participant or  
15 former participant at any time is the excess of--

16         “(A) the sum of--

17             “(i) all contributions made to the Thrift  
18 Savings Fund by the participant or former participant  
19 under section 8421(a) of this title;

20             “(ii) all contributions made to such fund for  
21 the benefit of the participant or former participant  
22 under section 8421(b) of this title;

23             “(iii) the amounts transferred from such fund  
24 with respect to the participant or former participant  
25 under section 8472(a) or 8474(b) of this title; and

079910.087

S.I.C.

38

1           “(iv) the total amount of the allocations made  
2           to and reductions made in the account pursuant to  
3           paragraph (3) of this section, over

4           “(B) the amounts paid with respect to such  
5           participant under sections 8411, 8412, 8433, and 8434 of  
6           this title.

7           “(3) Pursuant to rules prescribed by the Board, the  
8           Board shall allocate to the credit of the account of each  
9           participant or former participant an amount equal to a pro  
10          rata share of the net earnings and net losses from each  
11          investment of sums in the Thrift Savings Fund attributable to  
12          sums credited to the account of such participant, reduced by  
13          an appropriate share of--

14           “(A) the administrative expenses of the Board, and

15           “(B) any amount reserved by the Board to pay  
16          underfunded annuities,

17          as determined by the Board.

18          “(b) Each employing agency shall report to the Board at  
19          the end of each month all amounts contributed by or for the  
20          benefit of each participant during such month under section  
21          8421(b) of this title.

22          “(c) The Board shall provide each participant and former  
23          participant an annual statement of the balance in the  
24          participant's or former participant's account.

25           “SUBCHAPTER IV--SURVIVOR BENEFITS

079910.087

S.I.C.

39

1    "§ 8431. Basic plan benefits relating to death of a  
2                   participant

3       "(a) If a participant dies after performing eighteen  
4 months of service and before separating from employment by  
5 the Government, death benefits shall be paid as provided in  
6 this section.

7       "(b) Except as provided in subsection (c) of this  
8 section, the surviving spouse of a deceased participant  
9 referred to in subsection (a) of this section shall be  
10 entitled to a survivor annuity equal to the higher of--

11        "(1) the amount equal to 50 percent of the annuity  
12        computed with respect to the deceased participant  
13        pursuant to sections 8413 and 8414 of this title as if  
14        the participant had retired from employment by the  
15        Government entitled to an immediate annuity under section  
16        8411 of this title on the day before the date of death of  
17        the participant; or

18        "(2) the amount equal to the excess, if any, of--

19            "(A) the amount equal to 25 percent of the  
20            average pay of the deceased participant, over

21            "(B) the sum of--

22                "(i) the amount of the benefits, if any,  
23                that, by reason of the death of the participant  
24                and based on the service of the participant, are  
25                payable pursuant to subsection (e), (f), or (g)

079910.087

S.I.C.

40

1 of section 202 of the Social Security Act (or  
2 that, but for a failure to file an application  
3 referred to in such subsection, would be payable  
4 pursuant to such subsection) to the surviving  
5 spouse; and

6 "(11) If benefits referred to in clause (1)  
7 of this subparagraph are or would be payable to  
8 the surviving spouse, the amount of the benefits,  
9 if any, that, by reason of the death of the  
10 participant and based on the service of the  
11 participant, are payable pursuant to section  
12 202(d) of such Act (or that, but for a failure to  
13 file an application referred to in such section  
14 202(d), would be payable pursuant to such section  
15 202(d)) to the deceased participant's children,  
16 if any, who are in the care of the surviving  
17 spouse.

18 "(c) The amount of the survivor annuity payable under  
19 this section to the surviving spouse of a deceased  
20 participant shall be equal to the excess, if any, of the  
21 amount of the survivor annuity which would be payable to the  
22 surviving spouse under this section without regard to this  
23 subsection over the total amount of the survivor annuity or  
24 survivor annuities payable pursuant to section 8434 of this  
25 title to an eligible former spouse or eligible former spouses

079910.087

S.I.C.

41

1 of the deceased former participant.

2 ``§ 8432. Basic plan benefits relating to death of a former  
3 participant

4 `` (a) For the purposes of this section the term 'deceased  
5 former participant's annuity' means--

6 `` (1) the annuity the deceased former participant was  
7 entitled to receive under section 8411 of this title on  
8 the day before the date of the former participant's  
9 death; or

10 `` (2) in the case of a former participant who died  
11 entitled to a deferred annuity under section 8412 of this  
12 title before payment of the annuity commenced, the  
13 annuity the deceased former participant would have been  
14 entitled to receive under such section if the deceased  
15 former participant had been 62 years of age on the day  
16 before the date of death.

17 `` (b) (1) Except as provided in paragraph (2) of this  
18 subsection, the surviving spouse of a former participant who  
19 dies after terminating employment entitled to an immediate or  
20 deferred annuity under subchapter II of this chapter shall be  
21 entitled to a survivor annuity as provided in subsection (c)  
22 of this section.

23 `` (2) (A) A survivor annuity shall not be paid to a  
24 surviving spouse of a former participant who, jointly with  
25 the former participant, waived a survivor annuity under this

079910.087

S.I.C.

42

1 section as provided in subparagraph (B) of this paragraph.

2     “(B) For the purposes of subparagraph (A) of this

3 paragraph, a waiver may be made only in writing, on the date

4 payment of an annuity to the former participant commences

5 under subchapter II of this chapter, and in accordance with

6 such regulations as the Office may prescribe.

7     “(c) Except as provided in subsection (d) of this

8 section, the amount of the survivor annuity payable under

9 subsection (b) of this section to a deceased former

10 participant's surviving spouse--

11     “(1) for any month the surviving spouse is or

12 becomes eligible, by reason of the death of the former

13 participant and based on the service of the former

14 participant, to receive benefits pursuant to subsection

15 (e), (f), or (g) of section 202 of the Social Security

16 Act (or would be or would become eligible to receive such

17 benefits if the participant had been fully or currently

18 insured for the purposes of such subsection) shall be

19 equal to--

20     “(A) in the case of a surviving spouse who has

21 not received a survivor annuity computed pursuant to

22 paragraph (2) of this subsection (based on the

23 service of the deceased former participant), 50

24 percent of the amount of the deceased former

25 participant's annuity computed pursuant to sections

079910.087

S.I.C.

43

1           8413 and 8414 of this title without regard to section  
2           8415 of this title and adjusted as provided in  
3           section 8452 of this title; and

4           “(B) in the case of a surviving spouse who has  
5           received a survivor annuity computed pursuant to  
6           paragraph (2) of this subsection (based on the  
7           service of the deceased former participant), 50  
8           percent of the amount of such survivor annuity the  
9           surviving spouse was entitled to receive for the  
10          latest month such paragraph applied to the survivor  
11          annuity; and

12          “(2) for any full month the surviving spouse is not  
13          eligible to receive benefits pursuant to subsection (e),  
14          (f), or (g) of section 202 of the Social Security Act  
15          (and would not be eligible to receive such benefits if  
16          the participant had been fully or currently insured for  
17          the purposes of such subsection) shall be equal to the  
18          amount of the deceased former participant's annuity  
19          computed pursuant to sections 8413, 8414, and 8415 of  
20          this title.

21          “(d) The amount of the survivor annuity payable under  
22          this section to the surviving spouse of a deceased former  
23          participant shall be equal to the excess, if any, of the  
24          amount of the survivor annuity which would be payable to the  
25          surviving spouse under this section without regard to this

079910.087

S.I.C.

44

1 subsection over the total amount of any survivor annuity or  
2 survivor annuities payable pursuant to section 8434 of this  
3 title to an eligible former spouse or eligible former spouses  
4 of the deceased former participant.

5 ``§ 8433. Survivor benefits under the thrift savings plan  
6 `` (a) Except as provided in section 8425(a) of this title  
7 or subsection (c) of this section, the amount in the account  
8 established and maintained for a deceased participant or  
9 deceased former participant pursuant to section 8428(a) of  
10 this title, determined on the date of distribution under this  
11 section, shall, subject to the limits of the entitlement set  
12 out in section 8422(a)(1) of this title (without regard to  
13 section 8422(a)(2) of this title), be paid to--

14 `` (1) the surviving spouse of the deceased  
15 participant pursuant to the method elected under  
16 subsection (b) of this section; or  
17 `` (2) if there is no surviving spouse, to the estate  
18 of the deceased participant.

19 `` (b) A surviving spouse entitled to payment of benefits  
20 under subsection (a) of this section may elect--

21 `` (1) to receive an annuity from the Fund payable  
22 monthly for life;

23 `` (2) to transfer the amount referred to in such  
24 subsection to an individual retirement account (within  
25 the meaning of the Internal Revenue Code of 1954) of the



079910.087

S.I.C.

45

1 surviving spouse; or

2 "(3) to withdraw such amount in one payment.

3 "(c)(1) Any amount required for the payment of a  
4 survivor annuity with respect to a deceased participant or  
5 deceased former participant out of the Thrift Savings Fund  
6 pursuant to section 8434 of this title shall be deducted and  
7 withheld from a distribution made with respect to the  
8 deceased participant or deceased former participant pursuant  
9 to subsection (a) of this section. The amount deducted and  
10 withheld shall be maintained in the Thrift Savings Fund until  
11 expended in payment of the survivor annuity or until the  
12 survivor annuity terminates. Any sums remaining from the  
13 amount deducted and withheld after the termination of the  
14 survivor annuity, plus net earnings realized from investment  
15 of such amount, shall be distributed as provided in  
16 subsection (a) of this section.

17 "\$ 8434. Survivor benefits for eligible former spouses:  
18 entitlement; amount

19 "(a) Subject to subsections (b) through (f) of this  
20 section, an eligible former spouse of a deceased participant  
21 or deceased former participant is entitled to a survivor  
22 annuity under this section, if and to the extent that an  
23 election under section 8435 of this title or the terms of any  
24 court decree dissolving or annulling the marriage of the  
25 participant or former participant and the eligible former

079910.087

S.I.C.

46

1 spouse or any court order or court-approved property  
2 settlement agreement incident to such decree expressly  
3 provides for such survivor annuity.

4       “(b)(1) The amount of the survivor annuity payable from  
5 the Fund to an eligible former spouse of a deceased  
6 participant or deceased former participant under this section  
7 may not exceed the excess, if any, of--

8           “(A) the amount applicable in the case of such  
9 eligible former spouse, as determined under paragraph (2)  
10 of this subsection, over

11           “(B) the amount of any survivor annuity payable from  
12 the Fund under this section to any other eligible former  
13 spouse of the participant or former participant based on  
14 an election previously made under section 8435 of this  
15 title or a court decree or order previously issued.

16       “(2)(A) For the purposes of paragraph (1)(A) of this  
17 subsection, the applicable amount in the case of an eligible  
18 former spouse of a deceased participant or deceased former  
19 participant is the amount which would be applicable--

20           “(i) under section 8432(c) of this title (without  
21 regard to section 8432(d) of this title) in the case of a  
22 surviving spouse of the deceased, if the deceased was a  
23 former participant who died after retirement; or

24           “(ii) under section 8431(b)(1) of this title  
25 (without regard to section 8431(c) of this title) in the

079910-087

S.I.C.

47

1 case of a surviving spouse of the deceased, if the  
2 deceased was a participant described in section 8431(a)  
3 of this title.

4 "(c)(1) The total amount of all survivor annuities  
5 payable from the Thrift Savings Fund to eligible former  
6 spouses of a deceased participant or deceased former  
7 participant pursuant to this section may not exceed the  
8 amount of the survivor annuities that would be payable to the  
9 former spouses out of 100 percent of the balance in the  
10 account of the deceased participant or deceased former  
11 participant, determined in accordance with generally accepted  
12 actuarial practice and standards.

13 "(2) If more than one eligible former spouse is entitled  
14 to a survivor annuity pursuant to this section, the amount of  
15 each such survivor annuity shall be limited appropriately to  
16 carry out paragraph (1) of this subsection on a first-come,  
17 first-served basis determined by reference to the date an  
18 election is properly made pursuant to section 8435 of this  
19 title or the date the Board properly receives a copy of the  
20 court decree, order, or court-approved agreement applicable  
21 to the entitlement.

22 "(d) The commencement and termination of a survivor  
23 annuity payable under this section to an eligible former  
24 spouse of a deceased participant or deceased former  
25 participant shall be governed by the terms of the applicable

079910.087

S.I.C.

48

1 court order, decree, or agreement or an election, as the case  
2 may be, except that any such survivor annuity--

3        “(1) shall not commence before--

4            “(A) the day after the participant or former  
5 participant dies, or

6            “(B) the first day of the second month beginning  
7 after the date on which the Office receives written  
8 notice of the court order, decree, or agreement or  
9 the election, as the case may be, together with such  
10 additional information or documentation as the Office  
11 may prescribe,

12 whichever is later, and

13        “(2) shall terminate not later than the last day of  
14 the month before the former spouse remarries before  
15 becoming 55 years of age or dies.

16        “(e) For the purposes of this section, a modification in  
17 a court decree, order, or agreement or an election referred  
18 to in subsection (a) of this section shall not be effective--

19            “(1) if such modification is made after the  
20 retirement of the participant concerned, and

21            “(2) to the extent that such modification involves a  
22 survivor annuity under this section.

23        “(f) For the purposes of this section, a court decree,  
24 order, or agreement or an election referred to in subsection  
25 (a) of this section shall not be effective, in the case of a

079910.087

S.I.C.

49

1 former spouse, to the extent that it is inconsistent with any  
2 joint waiver previously executed with respect to such former  
3 spouse under section 8432(b)(2) of this title.

4     “(g) Any payment under this section to a person bars  
5 recovery by any other person.

6     “§ 8435. Survivor benefits for former spouses: elections,  
7                   deposits and collections, and administrative  
8                   provisions

9     “(a)(1) A former participant who, on the date that  
10 payment of an annuity to the former participant under  
11 subchapter II of this chapter commences, has an eligible  
12 former spouse may elect, under procedures prescribed by the  
13 Office, to provide a survivor annuity for such former spouse  
14 under section 8434 of this title. An election under this  
15 paragraph shall be made on the date that payment of an  
16 annuity under subchapter II of this chapter to the former  
17 participant commences or, if later, within two years after  
18 the date on which the marriage of the former spouse to the  
19 former participant is dissolved or annulled. The election  
20 shall specify the amount of the survivor annuity to be  
21 provided under this paragraph.

22     “(2) A former participant making an election under  
23 paragraph (1) of this subsection during the two-year period  
24 referred to in such paragraph shall deposit in the Fund,  
25 within such period, an amount determined by the Office, as

079910.087

S.I.C.

50

1 nearly as may be administratively feasible, to reflect the  
2 amount by which the annuity of such former participant would  
3 have been reduced if the election had been continuously in  
4 effect since the date the annuity commenced, plus interest.

5       “(3) An election under paragraph (1) of this  
6 subsection--

7           “(A) shall not be effective to the extent that it  
8 conflicts with--

9           “(1) any court decree or order referred to in  
10 subsection (a) of section 8434 of this title, which  
11 was issued before the date of such election; or

12           “(11) any agreement referred to in such  
13 subsection which was entered into before such date;

14           “(B) shall not be effective to the extent that the  
15 amount of the annuity specified in the election exceeds--

16           “(1) in the case of a survivor annuity payable  
17 from the Fund, the amount determined pursuant to  
18 section 8434(b) of this title; or

19           “(11) in the case of a survivor annuity payable  
20 from the Thrift Savings Fund, the amount determined  
21 pursuant to section 8434(c) of this title; and

22           “(C) except as provided in subsection (d) of this  
23 section, shall not be effective, in the case of a former  
24 participant who is married on the date of the election,  
25 unless the election is made with the written consent of

079910.087

51

S.I.C.

1 the former participant's spouse.

2 "(b) A former participant who has elected to provide a  
3 survivor annuity for an eligible former spouse pursuant to  
4 subsection (a) of this section may make an election to  
5 provide or increase a survivor annuity for any other eligible  
6 former spouse of the former participant within the same  
7 period that, and subject to the same conditions under which,  
8 an election could be made under subsection (c) of this  
9 section for a spouse of the former participant (subject to  
10 the provisions of subsection (a)(3)(C) of this section  
11 relating to the consent of a spouse, if the former  
12 participant is then married). The opportunity to make an  
13 election under the preceding sentence is in addition to any  
14 opportunity otherwise provided under this subsection.

15 "(c) If the entitlement of an eligible former spouse of  
16 a former participant to a survivor annuity under this  
17 subchapter is terminated or reduced by reason of the  
18 remarriage or death of the former spouse, the former  
19 participant may elect, in a signed writing received by the  
20 Office within two years after the former spouse's date of  
21 death or remarriage, to provide a survivor annuity or to  
22 increase the survivor annuity for the spouse of the former  
23 participant.

24 "(d)(1) If a former participant is married on the date  
25 that payment of an annuity under subchapter II of this

079910.087

S.I.C.

52

1 chapter to the former participant commences, the marriage  
2 terminates, and the former participant remarries, the former  
3 participant may irrevocably elect during the later marriage  
4 to provide an annuity for such former participant's spouse.  
5 An election under this subparagraph shall be made in a signed  
6 writing received by the Office within two years after the  
7 date of the remarriage.

8 "(2) An election under paragraph (1) of this subsection  
9 shall be effective the first day of the second month  
10 beginning after the election is received by the Office, but  
11 not earlier than nine months after the date of the remarriage  
12 referred to in such paragraph.

13 "(3) A former participant making an election under  
14 paragraph (1) of this subsection shall, within two years  
15 after the date of the remarriage referred to in such  
16 paragraph, deposit in the Fund an amount determined by the  
17 Office, as nearly as may be administratively feasible, to  
18 reflect the amount by which the annuity of such former  
19 participant would have been reduced if the election had been  
20 in effect since the date that payment of an annuity to the  
21 former participant under subchapter II of this chapter  
22 commenced or, if later, the date the previous reduction in  
23 such former participant's annuity was terminated under  
24 section 8415(b) or 8415(c) of this title, plus interest.

25 "(4) Notwithstanding any other provision of this



079910.097

S.I.C.

53

1 paragraph, an election under this subsection may not be made  
2 for the purpose of providing a survivor annuity to a spouse  
3 of a former participant by remarriage if--

4       “(A) such spouse was married to the former  
5 participant on the date that payment of an annuity to the  
6 former participant under subchapter II of this chapter  
7 commenced; and

8       “(B) all rights to survivor benefits for such spouse  
9 under this subchapter based on marriage to such former  
10 participant were then waived under section 8432(b)(2) of  
11 this title.

12       “(e) For the purposes of subsection (a)(2) or (d)(3) of  
13 this section, the annual rate of interest for each year  
14 during which an annuity would have been reduced if the  
15 election referred to in such subsection had been in effect on  
16 and after the applicable date referred to in such subsection  
17 shall be six percent.

18       “(f) If a former participant does not make a deposit  
19 required by subsection (a)(2) or (d)(3) of this section, the  
20 Office shall collect such amount by offset against the former  
21 participant's annuity payable from the Fund, up to a maximum  
22 of 25 percent of the net annuity otherwise payable to the  
23 former participant. The former participant is deemed to  
24 consent to such offset.

25       “(g) The Office may extend the time limit for making a

079910.007

S.I.C.

54

1 deposit required by subsection (a)(2) or (d)(3) of this  
2 section in any case for good cause shown.

3       “(h) Any requirement that the spouse of a participant or  
4 former participant waive a right to a survivor annuity under  
5 this subchapter as a condition for an election authorized by  
6 this section shall not apply if the participant or former  
7 participant establishes to the satisfaction of the Office  
8 that--

9               “(1) the spouse's whereabouts cannot reasonably be  
10 determined; or

11               “(2) due to exceptional circumstances, it would be  
12 inappropriate to require the participant or former  
13 participant to obtain the spouse's consent.

14       “§ 8436. Termination of entitlement

15       “(a) An election of a former participant to provide a  
16 survivor annuity to the former participant's spouse under  
17 this subchapter terminates on the first day of the first  
18 month beginning after--

19               “(1) the date of the death of the spouse; or

20               “(2) the date of the dissolution of the spouse's  
21 marriage to the former participant.

22       “(b) The entitlement of an eligible former spouse of a  
23 former participant to a survivor annuity under section  
24 8434(a) of this title terminates on the first day of the  
25 first month beginning after--

079910.087

S.I.C.

55

1           “(1) the date of the death of the former spouse; or  
2           “(2) the date the former spouse remarries before  
3 becoming 55 years of age.

4           “SUBCHAPTER V--DISABILITY BENEFITS

5   “§ 8441. Definitions

6   “For the purposes of this subchapter--

7           “(1) the term ‘disability benefits under the Social  
8 Security Act’ means disability insurance benefits payable  
9 under section 223 of the Social Security Act or benefits  
10 payable under section 202 of such Act by reason of being  
11 under a disability;

12          “(2) the term ‘disabled’, when used with respect to  
13 an eligible participant, means that the eligible  
14 participant--

15           “(A) is under a disability within the meaning of  
16 section 223 of the Social Security Act; or

17           “(B) is unable, because of disease or injury, to  
18 render useful and efficient service in the  
19 participant’s position and (except in the case of a  
20 Member) is not qualified for reassignment, under  
21 procedures prescribed by the Office, to a vacant  
22 position--

23           “(1) which is in the participant’s employing  
24 agency;

25           “(ii) which is in a grade (or pay level) not

079910.087

S.I.C.

56

1 lower than two grades (or pay levels) below the  
2 grade (or pay level) of the participant's  
3 position; and

4 "(iii) in which the participant would be  
5 able to render useful and efficient service;

6 "(3) the term 'eligible participant' means a  
7 participant whose service exceeds eighteen months and--

8 "(A) who--

9 "(1) has applied for disability benefits  
10 under the Social Security Act and has been  
11 determined to be under a disability for the  
12 purposes of title II of the Social Security Act;  
13 or

14 "(ii) in the case of a participant who is  
15 not entitled to disability benefits under the  
16 Social Security Act by reason of insufficient  
17 quarters of coverage, has been determined by the  
18 Office to be disabled within the meaning of  
19 paragraph (1)(A) of this section on the basis of  
20 a report of examination required by section 8445  
21 of this title; or

22 "(B) who has been determined by the Office to be  
23 disabled within the meaning of paragraph (2)(B) of  
24 the section on the basis of a report of examination  
25 required by section 8445 of this title;

079910.087

S.I.C.

57

1       “(4) the term ‘onset average pay’, when used with  
2       respect to a disabled eligible participant, means the  
3       participant’s average pay on the date of onset of the  
4       disability; and

5       “(5) the term ‘projected service’, when used with  
6       respect to a disabled eligible participant, means the sum  
7       of the number of years of service performed by the  
8       participant before the onset of the disability and the  
9       number of years, if any, after the date of the onset of  
10      the disability and before the date the participant  
11      becomes 62 years of age.

12    “§ 8442. Entitlement

13      “(a) An eligible participant who is disabled is entitled  
14      to receive disability benefits under this subchapter while  
15      under 62 years of age.

16      “(b)(1) An eligible participant who is disabled, is not  
17      less than 62 years of age, and has ten years or more of  
18      projected service shall be entitled to an annuity as provided  
19      in subchapter II of this title.

20      “(2) For the purposes of applying the provisions of  
21      subchapter II of this title in the case of an eligible  
22      participant pursuant to paragraph (1) of this subsection--

23          “(A) the eligible participant shall be deemed to  
24          have separated from employment by the Government at 62  
25          years of age;

079910.087

S.I.C.

58

1           “(B) the service of the participant shall be deemed  
2       to be equal to the participant's projected service; and

3           “(C) the participant's average pay shall be equal to  
4       the participant's onset average pay, increased each time  
5       after the date of onset of the participant's disability  
6       that the rates of pay under the General Schedule are  
7       increased pursuant to section 5305 of this title, by the  
8       same overall average percent of the increase in such  
9       rates, and compounded.

10    “§ 8443. Computation of benefits

11       “(a) The annual rate of the disability benefits  
12       initially payable under section 8442(a) of this title to an  
13       eligible participant referred to in section 8441(3)(A) of  
14       this title shall be equal to the excess of 60 percent of the  
15       participant's onset average pay over the amount, if any,  
16       payable to the participant as disability benefits under the  
17       Social Security Act. Such annual rate shall be adjusted as  
18       provided in section 8452 of this title.

19       “(b) The annual rate of the disability benefits payable  
20       under section 8442(a) of this title to an eligible  
21       participant referred to in section 8441(3)(B) of this title--

22           “(1) during the period ending one year after the  
23       date of onset of the disability, shall be equal to 60  
24       percent of the participant's onset average pay; and

25           “(2) after such period, shall be equal to the lesser

079910.087

59

S.I.C.

1 of--

2           “(A) 20 percent of the onset average pay  
3 increased by the same percent as the overall percent  
4 increase, if any, taking effect in the rates of pay  
5 under the General Schedule pursuant to section 5305  
6 of this title between the effective date of the  
7 annual rate computed pursuant to paragraph (1) of  
8 this subsection and the effective date of the annual  
9 rate computed under this paragraph; or

10           “(B) the amount the participant would be  
11 entitled to receive under section 8442(b) of this  
12 title if the eligible participant were 62 years of  
13 age.

14   “§ 8444. Application

15       “(a) Except as provided in subsection (b) of this  
16 section, a claim of a participant for disability benefits  
17 under this subchapter may be allowed only if the participant  
18 files with the Office an application for the disability  
19 benefits within one year after the date the participant  
20 separates from employment by the Federal Government.

21       “(b) The Office may waive the time limitation set out in  
22 subsection (a) of this section in the case of a participant  
23 if--

24           “(1) the Office determines that the participant was  
25 mentally incompetent on the date the participant

079910.087

S.I.C.

60

1 separated from employment by the Federal Government or  
2 within one year after such date; and

3 "(2) the application for disability benefits is  
4 filed within one year after the date the participant is  
5 restored to mental competency or the date a fiduciary is  
6 appointed to manage the financial affairs of the  
7 participant, whichever date is earlier.

8 "§ 8445. Medical examinations

9 "(a) A participant applying for disability benefits  
10 under section 8442(a) of this title shall be examined by a  
11 physician under the direction of the Office at such times as  
12 the Office may require.

13 "(b) A physician examining a participant under  
14 subsection (a) of this section shall report to the Office the  
15 diagnosis and prognosis with respect to such participant.

16 "(c) Notwithstanding any other provision of this  
17 subchapter, any participant who fails to submit to the  
18 examination required under subsection (a) of this section  
19 shall not be entitled to disability benefits.

20 "§ 8446. Offers of alternative employment

21 "(a) Any participant who is applying for disability  
22 benefits under this subchapter, is examined pursuant to  
23 section 8445 of this title, and is determined on the basis of  
24 the examination to be able to perform the work required in  
25 any position in the participant's employing agency shall be



079910.087

S.I.C.

61

1 considered for appointment to such position.

2     “(b) Any participant who is appointed to or offered a  
3 position under subsection (a) of this section is entitled to  
4 appeal to the Merit Systems Protection Board under section  
5 7701 of this title any determination that the participant is  
6 able to perform the work required of such position.

7     “§ 8447. Recovery or restoration of earning capacity

8     “(a)(1) If the office determines that an individual who  
9 is receiving disability benefits under this subchapter has  
10 recovered from the disability before becoming 62 years of  
11 age, payment of the benefits shall terminate on the date the  
12 individual is reemployed by the Government or one year after  
13 the date of the medical examination on which the Office's  
14 determination is based, whichever date is earlier.

15     “(2) Except as provided in subsection (c)(2) of this  
16 section, payment of disability benefits under this chapter  
17 that has been terminated pursuant to paragraph (1) of this  
18 subsection in the case of any individual shall be resumed if  
19 there is a recurrence of the individual's disability, as  
20 determined by the Office after a medical examination of the  
21 individual. The resumption of payment of disability benefits  
22 shall be effective on the date such medical examination was  
23 completed. The annual rate of the disability benefits payable  
24 to the individual upon resumption of payment shall be the  
25 annual rate that would have been payable to the individual if

079910.087

S.I.C.

62

1 payment of disability benefits had not been terminated  
2 pursuant to paragraph (1) of this subsection.

3       “(b)(1) If the Office determines that an individual who  
4 is receiving disability benefits under this subchapter has  
5 received, during the latest calendar year, income from wages  
6 or self-employment or both totalling the amount equal to 80  
7 percent of the rate of pay payable for the individual's  
8 position of employment by the Government on the date of the  
9 onset of the individual's disability (increased as if such  
10 rate of pay had been increased, by the same percent as the  
11 overall percent increase in the rates of pay under the  
12 General Schedule, each time such rates had been increased  
13 pursuant to section 5305 of this title since such date),  
14 payment of the benefits shall terminate on the date 180 days  
15 after the end of such calendar year.

16       “(2) Except as provided in subsection (c)(2) of this  
17 section, if payment of disability benefits under this  
18 subchapter has been terminated pursuant to paragraph (1) of  
19 this subsection in the case of an individual who is not  
20 reemployed in a position subject to this chapter, continues  
21 to be disabled, and receives in the calendar year in which  
22 the disability benefits were terminated, or any calendar year  
23 after such year, income from wages or self-employment or both  
24 totalling less than the amount computed in such case as  
25 provided in such paragraph, payment of disability benefits to

079910.087

S.I.C.

63

1 the individual under this subchapter shall be resumed. The  
2 resumption of payment of disability benefits shall be  
3 effective the first day of the first year beginning after the  
4 year in which the individual received the income referred to  
5 in the first sentence. The annual rate of the disability  
6 benefits payable to the individual upon resumption of payment  
7 shall be the annual rate that would have been payable to the  
8 individual if payment had not been terminated pursuant to  
9 paragraph (1) of this subsection.

10 ``§ 8448. Relationship to workers' compensation

11 `` (a)(1) An individual is not entitled to receive  
12 disability benefits under this subchapter and compensation  
13 for injury or disability to the individual under subchapter I  
14 of chapter 81 of this title covering the same period of time.

15 `` (2) Paragraph (1) of this subsection does not bar the  
16 right of a claimant to the greater benefit conferred by  
17 either subchapter referred to in such paragraph for any part  
18 of the period referred to in such paragraph.

19 `` (3) Paragraph (1) of this subsection and the provisions  
20 of subchapter I of chapter 81 of this title do not deny an  
21 individual an annuity accruing to the individual under this  
22 chapter on account of service performed by the individual and  
23 do not deny any concurrent benefit to the individual under  
24 subchapter I of chapter 81 of this title on account of the  
25 death of another individual.

079910.087

S.I.C.

64

1       “(b)(1) Subject to paragraph (2) of this subsection, an  
2 individual's receipt of a lump-sum payment for compensation  
3 under section 8135 of this title shall not affect to  
4 individual's entitlement to disability benefits under this  
5 subchapter.

6       “(2) If disability benefits are payable under this  
7 subchapter by reason of the same disability for which a lump-  
8 sum payment of compensation referred to in paragraph (1) of  
9 this subsection has been made, so much of the compensation as  
10 has been paid for a period extended beyond the date payment  
11 of the disability benefits commences, as determined by the  
12 Department of Labor, shall be refunded to that Department for  
13 credit to the Employees' Compensation Fund. Before the  
14 individual may receive the disability benefits, the  
15 individual shall--

16           “(A) refund to the Department of Labor the amount  
17 representing the commuted compensation payments for the  
18 extended period; or

19           “(B) authorize the deduction of the amount from the  
20 disability benefits.

21 Deductions from the disability benefits may be made from  
22 accrued or accruing payments. The amounts deducted and  
23 withheld from disability benefits shall be transmitted to the  
24 Department of Labor for reimbursement to the Employees'  
25 Compensation Fund. When the Department of Labor finds that

079910.087

S.I.C.

65

1 the financial circumstances of an individual entitled to  
2 disability benefits under this subchapter warrant deferred  
3 refunding under this paragraph, deductions from the  
4 disability benefits may be prorated against and paid from  
5 accruing payments in such manner as the Department  
6 determines.

7 ``§ 8449. National Guard technicians

8     ``(a) For the purposes of this section, the term  
9 'technician' means an individual employed under section  
10 709(a) of title 32 who, as a condition of the employment, is  
11 required under section 709(b) of such title to be a member of  
12 the National Guard and to hold a specified military grade.

13     ``(b)(1) Except as provided in paragraph (2) of this  
14 subsection, a participant shall be entitled to disability  
15 benefits under this subchapter in the same manner as an  
16 eligible participant (as defined in section 8441(3)(B) of  
17 this title) if the participant--

18         ``(A) is separated from employment as a technician  
19 under section 709(e)(1) of title 32 by reason of a  
20 disability that disqualifies the individual from  
21 membership in the National Guard or from holding the  
22 military grade required for such employment:

23         ``(B) is not considered disabled;

24         ``(C) is not appointed to another position in the  
25 Government (under subsection (c) of this section or

079910.087

S.I.C.

66

1 otherwise); and

2 "(D) has not declined an offer to a position in the  
3 Government under subsection (c) of this section.

4 "(2) Payment of disability benefits to an individual  
5 under this section terminates--

6 "(A) on the date the individual is appointed to a  
7 position in the Government (under subsection (c) of this  
8 section or otherwise);

9 "(B) on the date the individual declines an offer of  
10 appointment to a position in the Government pursuant to  
11 subsection (c) of this section; or

12 "(C) as provided in section 8447(a) or 8447(b) of  
13 this title.

14 "(c) Any individual applying for or receiving disability  
15 benefits pursuant to this section shall, in accordance with  
16 regulations prescribed by the Office, be considered by any  
17 agency of the Government before any vacant position in the  
18 agency is filled if--

19 "(1) the position is located within the commuting  
20 area of the individual's former position;

21 "(2) the individual is qualified to serve in the  
22 vacant position; and

23 "(3) the position is at the same grade or equivalent  
24 level as the position from which the individual was  
25 separated under section 709(e)(1) of title 32.

079910.087

S.I.C.

67

1    `§ 8450. Funding

2        `Disability benefits payable to a participant under  
3 section 8442(a) of this title shall be paid by the employing  
4 agency from the appropriation or fund available for payment  
5 of the basic pay or salaries of employees of the agency. In  
6 the case of a participant in the legislative branch who was  
7 paid by the Clerk of the House on the date of onset of the  
8 disability, disability benefits payable to the participant  
9 shall be paid from the contingent fund of the House of  
10 Representatives.

11        `SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

12    `§ 8451. Responsibilities

13        `The Office shall pay all benefits that are payable  
14 under subchapter II of this chapter from the Fund.

15    `§ 8452. Cost-of-living adjustment in basic plan annuities,  
16 survivor annuities, and disability benefits

17        `(a) For the purpose of this section--

18            `(1) the term 'base quarter', when used with respect  
19 to a year, means the calendar quarter ending on September  
20 30, of such year; and

21            `(2) the price index for a base quarter is the  
22 arithmetical mean of such index for the three months  
23 comprising such quarter.

24        `(b) Except as provided in subsection (c) or (e) of this  
25 section, effective December 1 of each year, each annuity

079910.087

S.I.C.

68

1 payable from the Fund under subchapter II of this chapter or  
2 section 8431 or 8432 of this title, and each disability  
3 benefit payable under section 8442(a) of this title, and  
4 having a commencing date not later than such December 1 shall  
5 be increased by the percentage equal to the excess of--

6       “(1) the percent increase, if any, in the price  
7 index for the base quarter of such year over the price  
8 index for the base quarter of the latest preceding year  
9 in which an increase was made under this subsection in  
10 annuities under such subchapter, over

11       “(2) two percent,  
12 adjusted to the nearest one-tenth of one percent.

13       “(c)(1) The first increase (if any) made under  
14 subsection (b) of this section to an annuity payable to a  
15 participant who retires, to the surviving spouse of a  
16 deceased participant, or to the surviving spouse of a  
17 deceased annuitant whose annuity has never been increased  
18 under this subsection or subsection (b) of this section, and  
19 the first increase (if any) made under such subsection to a  
20 disability benefit that is referred to in such subsection and  
21 is payable to a participant, shall be equal to the product  
22 (adjusted to the nearest one-tenth of one percent) of--

23       “(A) one-twelfth of the applicable percentage of the  
24 adjustment computed under subsection (b) of this section,  
25 multiplied by



079910.067

69

S.I.C.

1       “(P)(1) the number of months (counting any portion  
2       of a month as a month) for which the annuity or  
3       disability benefit was payable before the effective date  
4       of the increase, or

5       “(11) in the case of a survivor annuity payable to a  
6       surviving spouse of a deceased annuitant whose annuity  
7       has never been so increased, the number of months  
8       (counting any portion of a month as a month) since the  
9       annuity was first payable to the deceased annuitant.

10      “(2) Effective on its commencing date, an annuity  
11      referred to in subsection (b) of this section and payable to  
12      an annuitant's surviving spouse shall be increased by the  
13      total percent by which the deceased annuitant's annuity had  
14      been increased under this section during the period beginning  
15      on the date the deceased annuitant's annuity commenced and  
16      ending on the date of the deceased annuitant's death.

17      “(d) The monthly installment of an annuity or disability  
18      benefit payable after adjustment under this section shall be  
19      rounded to the next lowest dollar, but the increase in the  
20      monthly installment under this section shall be at least one  
21      dollar.

22      “§ 8453. Rate of benefits

23      “Each annuity and disability benefit is stated as an  
24      annual amount, one-twelfth of which, fixed at the nearest  
25      dollar, constitutes the monthly rate payable on the first

079910.087

70

S.I.C.

1 business day of the first month beginning not less than one  
2 month after the last day of the month for which the annuity  
3 or disability benefit has accrued.

4 ``§ 8454. Accrual and termination of annuities

5 `` (a)(1) Except as otherwise provided in this subchapter,  
6 the annuity of a participant under subchapter II of this  
7 chapter commences to accrue on the day after--

8 `` (A) the participant separates from employment by  
9 the Government entitled to an immediate annuity under  
10 section 8411 of this title, or

11 `` (B) the date a participant referred to in section  
12 8412 of this title becomes 62 years of age,  
13 as the case may be.

14 `` (2) The annuity of a former participant under this  
15 chapter terminates on the date of death or other terminating  
16 event provided by law.

17 `` (b)(1) The survivor annuity of an individual entitled  
18 to a survivor annuity under this chapter commences to accrue  
19 on the date of death of the deceased participant or former  
20 participant on whose death such annuity is based.

21 `` (2) The survivor annuity payable to a surviving spouse  
22 or an eligible former spouse of a deceased participant or  
23 deceased former participant under this chapter terminates on  
24 the last day of the last month ending before the surviving  
25 spouse or former spouse dies or, if the surviving spouse or

079910.087

S.I.C.

71

1 former spouse is less than 55 years of age, remarries.

2 ``§ 8455. Waiver, allotment, and assignment of benefits

3 `` (a) An individual entitled to receive payment of  
4 benefits under subchapter II of this chapter may decline to  
5 accept all or any part of the amount of the benefits by a  
6 waiver signed and filed with the Office. The waiver may be  
7 revoked in writing at any time. Payment of the benefits  
8 waived may not be made for the period during which the waiver  
9 is in effect.

10 `` (b) An individual entitled to receive payment of  
11 benefits under subchapter II of this chapter may make  
12 allotments or assignments of amounts from the benefits for  
13 such purposes as the Office considers appropriate.

14 ``§ 8456. Application for benefits

15 `` (a) No payment of benefits based on the service of a  
16 former participant shall be made under subchapter II of this  
17 chapter unless an application for payment of the benefits is  
18 received by the Office before the one hundred and fifteenth  
19 anniversary of the former participant's birth.

20 `` (b) Notwithstanding subsection (a) of this section,  
21 after the death of a participant or former participant, a  
22 benefit based on the participant's or annuitant's service  
23 shall not be paid under subchapter II of this chapter unless  
24 an application therefor is received by the Office within  
25 thirty years after the death or other event which establishes

079910.087

S.I.C.

72

1 the entitlement to the benefit.

2 ``§ 8457. Court orders

3     ``(a) Payments under this chapter which would otherwise  
4 be made to a participant or former participant based upon the  
5 service of the participant or former participant shall be  
6 paid (in whole or in part) by the Office or the Board, as the  
7 case may be, to another person if and to the extent that the  
8 terms of any court decree of divorce, annulment, or legal  
9 separation, or the terms of any court order or court-approved  
10 property settlement agreement incident to any court decree of  
11 divorce, annulment, or legal separation expressly provide.  
12 Any payment under this paragraph to a person bars recovery by  
13 any other person.

14     ``(b) Subsection (a) of this section shall apply only to  
15 payments made by the Office or the Board under this chapter  
16 after the date the Office or the Board, as the case may be,  
17 receives written notice of such decree, order, or agreement,  
18 and such additional information and documentation as the  
19 Office or the Board may require.

20 ``§ 8458. Annuities and pay on reemployment

21     ``(a) If a former participant receiving an annuity under  
22 this chapter becomes employed in an appointive or elective  
23 position in the Government, payment of the annuity terminates  
24 effective on the date of the employment and the former  
25 participant's service on and after the date the former

079910.087

73

S.I.C.

1 participant becomes so employed is covered by this chapter.  
2 Upon termination of the employment, the rights of the former  
3 participant under this chapter shall be redetermined. If the  
4 former participant dies while still so employed, a survivor  
5 annuity payable with respect to the deceased former  
6 participant shall be redetermined as if the employment had  
7 otherwise terminated on the date of death.

8     “(b) The amount of an annuity resulting from a  
9 redetermination of rights under this chapter pursuant to  
10 subsection (a) of this section shall not be less than the  
11 amount of the terminated annuity plus any increases under  
12 section 8452 of this title occurring after the termination of  
13 the annuity and before the commencement of the redetermined  
14 annuity.

15             “SUBCHAPTER VII--TRANSITION PROVISIONS

16     “§ 8471. Elections

17     “(a) Any individual who was subject to subchapter III of  
18 chapter 83 of this title as an employee (as defined in  
19 section 8331(1) of this title) or a Member (as defined in  
20 section 8331(2) of this title) on December 31, 1983, and is  
21 not required by section 8402 of this title to be a  
22 participant may elect, not later than one year after the  
23 effective date of the Civil Service Pension Reform Act of  
24 1985--

25             “(1) to transfer to the System; or

879910.887

S.I.C.

74

1       “(2) to commence participation in the System and  
2       retain accrued credit for entitlement to benefits under  
3       such subchapter for service performed subject to such  
4       subchapter.  
5       “(b)(1) Any individual who--  
6       “(A) has an unrefunded lump-sum credit in the Fund  
7       under subchapter III of chapter 83 of this title,  
8       “(B) is required by section 8402 of this title to be  
9       a participant, and  
10       “(C) is not a participant referred to in section  
11       8474(a) of this title,  
12       may, not later than one year after the date the individual  
13       becomes a participant, make an election pursuant to paragraph  
14       (2) of this subsection.  
15       “(2) An individual authorized to make any election  
16       pursuant to this paragraph may elect--  
17       “(A) to transfer retirement credit to the System; or  
18       “(B) to retain entitlement in the Civil Service  
19       Retirement and Disability System.  
20       “(c) An election under subsection (a) or (b) of this  
21       section shall be made in writing pursuant to such regulations  
22       as the Office may prescribe.  
23       “§ 8472. Transfer participants  
24       “(a)(1) The amount computed pursuant to paragraph (2) of  
25       this subsection shall be transferred from the Fund to the

079910.087

75

S.I.C.

1 Thrift Savings Fund in the case of an individual electing to  
2 transfer to the System under section 8471(a)(1) of this title  
3 or an individual electing to transfer retirement credit to  
4 the System under section 8471(b)(2)(A) of this title. The  
5 amount shall be credited to an account established for the  
6 individual pursuant to section 8428(a)(1) of this title.

7     “(2) The amount transferred from the Fund in the case of  
8 an individual pursuant to paragraph (1) of this subsection  
9 shall be equal to the sum of--

10         “(A) the lump-sum credit of the individual (other  
11 than interest computed pursuant to section 8331 (8) (C)  
12 of this title);

13         “(B) the total amount contributed by the employing  
14 agency and deposited to the credit of the Fund with  
15 respect to the individual pursuant to the second sentence  
16 of section 8334 (a) (1) of this title (or any similar  
17 prior provision of law); and

18         “(C) interest on the amounts referred to in  
19 subparagraphs (A) and (B) of this paragraph as if  
20 interest had been credited to the Fund at the end of each  
21 year at an annual rate of seven percent of the total of  
22 such amounts that had been deposited to the Fund with  
23 respect to such individual in such year and all prior  
24 years and had been compounded.

25     “(3) For the purposes of section 8422 of this title--

079910.087

S.I.C.

76

1           “(A) the amount computed pursuant to paragraph (2)  
2       (A) of this subsection and the interest on such amount,  
3       computed pursuant to paragraph (2) (C) of this  
4       subsection, shall be treated as a contribution made under  
5       section 8421 (a) of this title; and

6           “(B) the amount computed pursuant to paragraph (2)  
7       (B) of this subsection and the interest on such amount,  
8       computed pursuant to paragraph (2) (C) of this  
9       subsection, shall be treated as a contribution made under  
10      section 8421 (b) of this title.

11          “(4) All amounts transferred from the Fund pursuant to  
12      paragraph (1) of this subsection shall be transferred in the  
13      form of interest-bearing securities of the United States  
14      Government.

15          “(b) Any sums contributed to the Fund pursuant to  
16      section 8343 of this title by an individual referred to in  
17      subsection (a)(1) of this section shall be refunded to the  
18      individual.

19          “(c) The service that is credited for the purposes of  
20      subchapter III of chapter 83 of this title in the case of an  
21      individual referred to in subsection (a)(1) of this section  
22      and that is covered by deposits made pursuant to section 8334  
23      of this title (or any prior provision of law) or is described  
24      in section 8334(g) of this title shall be considered--

25           “(1) creditable service for the purposes of this



079910.087

S.I.C.

77

1 chapter; and

2 "(2) years of participation in the System for the  
3 purposes of section 8422(b)(1) of this title.

4 "(d) The basic pay paid to an individual referred to in  
5 subsection (a)(1) of this section for employment as an  
6 employee (as defined in section 8331(1) of this title) or as  
7 a Member (as defined in section 8331(1) of this title) shall  
8 be taken into account in computing the individual's average  
9 pay for the purposes of section 8413(a) of this title.

10 "§ 8473. Participants retaining entitlement in the Civil

11 Service Retirement and Disability System

12 "(a) Service that is creditable under subchapter III of  
13 chapter 83 of this title in the case of an individual  
14 electing to commence participation in the System under  
15 section 8471(a)(2) of this title or an individual electing to  
16 retain entitlement in the Civil Service Retirement and  
17 Disability System under section 8471(b)(2)(B) of this title  
18 shall be credited as service under this chapter only for the  
19 purpose of determining eligibility to retire entitled to an  
20 immediate annuity under section 8411 of this title.

21 "(b)(1) Service performed as a participant in the System  
22 by an individual referred to in subsection (a) of this  
23 section shall be credited under subchapter III of chapter 83  
24 of this title only for the purpose of determining eligibility  
25 to retire entitled to an immediate annuity under section 8335

079910.087

S.I.C.

78

1 or 8336 of this title.

2       “(2)(A) The rates of basic pay in effect for an  
3 individual referred to in subsection (a) of this section on  
4 and after the date the individual begins to participate in  
5 the System shall be taken into account in computing the  
6 individual's average pay (as defined in section 8331(4) of  
7 this title) for the purposes of subchapter III of chapter 83  
8 of this title.

9       “(B) The rates of basic pay in effect for an individual  
10 referred to in subsection (a) of this section before the date  
11 the individual begins to participate in the System shall be  
12 taken into account in computing the individual's average pay  
13 for the purposes of this chapter.

14       “§ 8474. Participants hired during temporary adjustment  
15                               period

16       “(a) If a participant first commenced service as an  
17 employee or Member after December 31, 1983, and before the  
18 effective date of the Civil Service Pension Reform Act of  
19 1985, and the service is employment for the purposes of title  
20 II of the Social Security Act and chapter 21 of the Internal  
21 Revenue Code of 1954, such service shall be credited as  
22 service for the purposes of this chapter and shall be  
23 considered years of participation in the System for the  
24 purposes of section 8422 (b) (1) of this title.

25       “(b)(1) The amount computed under paragraph (2) of this

079910.067

S.I.C.

79

1 subsection shall be transferred from the Fund to the Thrift  
2 Savings Fund in the case of a participant referred to in  
3 subsection (a) of this section. The amount transferred shall  
4 be credited to an account established for the individual  
5 pursuant to section 8428(a) of this title.

6       “(2)(A) The amount transferred from the Fund in the case  
7 of a participant pursuant to paragraph (1) of this subsection  
8 shall be equal to the sum of--

9           “(1) three times the total amount deducted and  
10 withheld from the basic pay of the participant pursuant  
11 to section 204(a) of the Federal Employee's Retirement  
12 Contribution Temporary Adjustment Act of 1983 (97 Stat.  
13 1107; 5 U.S.C. 8331 note); and

14           “(11) interest on the amount referred to in clause  
15 (1) of this subparagraph computed at the annual rate of  
16 ten percent and compounded annually, as if a fraction of  
17 such amount (determined as provided in subparagraph (B)  
18 of this paragraph) had been deposited to the credit of  
19 the Fund at the end of each month for which amounts were  
20 deducted and withheld from the basic pay of the  
21 participant as described in clause (1) of this  
22 subparagraph.

23       “(B) In the case of any participant to whom paragraph  
24 (1) of this subsection applies--

25           “(1) the numerator of the fraction referred to in

879910.087

S.I.C.

80

1        subparagraph (A) (ii) of this paragraph is one; and

2        `` (ii) the denominator of the fraction is the number

3        of months for which amounts were deducted and withheld

4        from the basic pay of the participant as described in

5        subparagraph (A) (i) of this paragraph.

6        `` (3) For the purposes of section 8422 of this title--

7        `` (A) one-third of the amount computed in the case of

8        a participant referred to in subsection (a) of this

9        section pursuant to paragraph (2) of this subsection

10       shall be treated as a contribution made under section

11       8421 (a) of this title; and

12       `` (B) two-thirds of such amount shall be treated as a

13       contribution made by the employing agency of the

14       participant pursuant to section 8421 (b) of this title.

15       `` (4) All amounts transferred from the Fund pursuant to

16       paragraph (1) of this subsection shall be transferred in the

17       form of interest-bearing securities of the United States.

18       `` § 8475. Exemption from offset provision of the Social

19                                Security Act

20       `` Section 215(a)(7) of the Social Security Act shall not

21       apply in the case of a person making an election to become a

22       participant in the System pursuant to section 8471(a) of this

23       title.

24       `` § 8476. Regulations

25       `` The Office of Personnel Management may prescribe

279910.087

S.I.C.

81

1 regulations to carry out this subchapter.

2 ``SUBCHAPTER VIII--CIVIL SERVICE THRIFT INVESTMENT BOARD

3 ``§ 8491. Establishment; membership

4 ``(a) There is established as an independent  
5 establishment in the executive branch of the Federal  
6 Government a Civil Service Thrift Investment Board.

7 ``(b) The Board shall be composed of--

8 ``(1) six members appointed by the President, by and  
9 with the advice and consent of the Senate; and

10 ``(2) an Executive Director appointed by a majority  
11 of the members appointed under paragraph (1) of this  
12 subsection.

13 The Executive Director shall have substantial experience,  
14 training, or expertise in the management of financial  
15 investments.

16 ``(c)(1)(A) Except as provided in subparagraph (B) of  
17 this paragraph the term of office of each member of the Board  
18 appointed under subsection (b)(1) of this section shall be  
19 seven years.

20 ``(B) Of the members of the Board first appointed under  
21 subsection (b)(1) of this section--

22 ``(i) one member shall be appointed for a term of one  
23 year;

24 ``(ii) one member shall be appointed for a term of  
25 two years;

079910.087

S.I.C.

82

1           ``(iii) one member shall be appointed for a term of  
2 three years;

3           ``(iv) one member shall be appointed for a term of  
4 four years;

5           ``(v) one member shall be appointed for a term of  
6 five years; and

7           ``(vi) one member shall be appointed for a term of  
8 six years.

9           ``(2) Any member appointed under subsection (b)(1) of  
10 this section to fill a vacancy occurring before the  
11 expiration of the term for which his predecessor was  
12 appointed shall be appointed for the remainder of such term.

13          ``(d) The Executive Director shall serve for seven years  
14 after the date of appointment unless removed earlier by the  
15 Board under section 8493(a)(3)(C) of this title.

16          ``§ 8492. Functions

17          ``(a) In addition to performing such functions, duties,  
18 and responsibilities as are required under subchapter III of  
19 this chapter, the Board shall--

20                ``(1) establish policy and prescribe regulations for  
21 the management of the Thrift Savings Fund and for the  
22 administration of subchapter III of this title;

23                ``(2) designate the general types of investments to  
24 be made with sums in the Thrift Savings Fund;

25                ``(3) review the performance of investments made for

079910.087

S.I.C.

83

1 the Thrift Savings Fund;

2       “(4) without regard to civil service and  
3 classification laws, fix the rate of pay for the  
4 Executive Director;

5       “(5) supervise the Executive Director; and

6       “(6) review and approve the budget of the Board.

7       “(b) The Executive Director shall--

8           “(1) be the executive officer of the Board;

9           “(2) preside at the meetings of the Board;

10          “(3) manage the Thrift Savings Fund;

11          “(4) pay annuities and other distributions from the  
12 Thrift Savings Fund under this chapter; and

13          “(5) administer the provisions of this subchapter  
14 and subchapter III of this chapter and the regulations  
15 prescribed by the Board.

16       “§ 8493. Powers of the Board

17       “(a) The Board may--

18           “(1) adopt, alter, and use a seal;

19           “(2) adopt, amend, and repeal regulations to carry  
20 out its functions;

21           “(3) upon the concurring votes of four members--

22               “(A) disapprove any action of the Executive  
23 Director under section 8494 of this title;

24               “(B) except as provided in subsection (b) of  
25 this section, direct the Executive Director to take

079910.087

84

S.I.C.

1           such action as the Board considers appropriate to  
2           carry out the provisions of this chapter and the  
3           policies of the Board; and  
4           ``(C) remove the Executive Director from office  
5           for good cause shown; and  
6           ``(4) take such other action as may be necessary to  
7           carry out the functions of the Board.  
8           ``(b) The Board may not direct the Executive Director--  
9           ``(1) to invest or to cause to be invested any sums  
10          of the Fund in a specific asset; or  
11          ``(2) to enter into a contract under section  
12          8494(a)(3) of this title with a specific private business  
13          concern.  
14          ``§ 8494. Powers of the Executive Director  
15          ``(a) Subject to section 8493 of this title, the  
16          Executive Director, may--  
17          ``(1) call meetings of the Board;  
18          ``(2) without regard to civil service and  
19          classification laws, appoint, employ, and fix the  
20          compensation of such personnel as may be necessary to  
21          carry out the provisions of this subchapter and  
22          subchapter III of this chapter;  
23          ``(3) subject to subsection (b) of this section, and  
24          subject to the approval of the Board, enter into  
25          contracts with private business concerns, without regard



079910.087

S.I.C.

85

1 to the provisions of title III of the Federal Property  
2 and Administrative Services Act of 1949 (41 U.S.C. 251 et  
3 seq.), to invest sums in the Thrift Savings Fund and to  
4 manage such investments;

5 "(4) enter into such other contracts or other  
6 arrangements or modifications thereof, as may be  
7 necessary to carry out the provisions of this subchapter  
8 and section 8427 of this title and the policies of the  
9 Board;

10 "(5) obtain from any Federal agency, including any  
11 independent establishment or instrumentality of the  
12 United States, advice, information, estimates,  
13 statistics, and such other assistance as the Executive  
14 Director considers necessary to carry out the provisions  
15 of this subchapter and suchapter III of this chapter and  
16 the policies of the Board;

17 "(6) make such expenditures from the Thrift Savings  
18 Fund as the Executive Director determines are necessary  
19 to carry out the provisions of this subchapter and  
20 subchapter III of this chapter and the policies of the  
21 Board;

22 "(7) pay the compensation, per diem, and travel  
23 expenses of personnel from the Fund;

24 "(8) accept and utilize the services of individuals  
25 employed intermittently in the Government service and

079910.087

S.I.C.

86

1 reimburse such individuals for travel expenses, as  
2 authorized by section 5703 of title 5, United States  
3 Code, including per diem as authorized by section 5702 of  
4 such title;

5 "(9) except as otherwise expressly prohibited by law  
6 or the policies of the Board, delegate any of his or her  
7 functions to such officers and employees under the Board  
8 as the Executive Director may designate and authorize  
9 such successive redelegations of such functions to such  
10 officers and employees under the Board as the Executive  
11 Director may consider to be necessary or appropriate; and

12 "(10) take such other action as may be necessary to  
13 carry out the functions of the Executive Director.

14 "(b) Each contract entered into under subsection (a)(3)  
15 of this section shall--

16 "(1) specify that the private business concern  
17 managing investments for the Thrift Savings Fund under  
18 such contract shall make, consistent with prudent  
19 criteria for financial investment, such investments as,  
20 in the judgment of such private business concern, will  
21 maximize the return on such investments; and

22 "(2) provide for the payment of fees to such  
23 business concern in an amount not exceeding the amount  
24 equal to one-quarter of one percent of the sums in the  
25 Thrift Savings Fund invested by such business concern

079910.087

S.I.C.

87

1 under the contract.

2 ``\$ 8495. Administrative provisions

3 `` (a) The Board shall meet--

4 `` (1) not less than four times during each fiscal  
5 year at such times as the Board shall establish; and

6 `` (2) at additional times at the call of the  
7 Executive Director.

8 `` (b) (1) The Board shall perform the functions and  
9 exercise the powers of the Board on a majority vote of a  
10 quorum of the Board.

11 `` (2) A vacancy on the Board shall not impair the  
12 authority of a quorum of the Board to perform the functions  
13 and exercise the powers of the Board.

14 `` (c) Four members of the Board shall constitute a quorum  
15 for the transaction of business.

16 `` (d) Each member of the Board who is not a Federal  
17 employee shall be compensated at the daily rate of basic pay  
18 applicable to a position described in section 5315 of this  
19 title for each day or part thereof during which such member  
20 is engaged in performing a function of the Board.

21 `` (e) The accrued annual leave of any employee who is a  
22 member of the Board shall not be charged for any time used in  
23 performing service for the Board during any work period.

24 ``\$ 8496. Fiduciary responsibilities; liability and penalty

25 `` (a) For the purposes of this section--

079910.087

S.I.C.

88

1       “(1) the term ‘fiduciary’ means--

2               “(A) with respect to the Thrift Savings Fund,

3       each member of the Board; and

4               “(B) with respect to sums from the Thrift

5       Savings Fund invested and managed by a private

6       business concern under a contract entered into under

7       section 8494(a)(3) of this title--

8               “(1) such private business concern; and

9               “(11) each owner, director, officer, and

10       employee of such private business concern;

11       “(2) the term ‘party in interest’ includes--

12               “(A) any fiduciary;

13               “(B) any counsel to a fiduciary;

14               “(C) any person providing services to the Board;

15               “(D) a labor organization;

16               “(E) a spouse, ancestor, lineal descendant, or

17       spouse of a lineal descendant of a person described

18       in subclause (A), (B), or (C) of this clause; and

19               “(F) a corporation, partnership, or trust or

20       estate of which, or in which, 50 percent or more of--

21               “(1) the combined voting power of all

22       classes of stock entitled to vote or the total

23       value of shares of all classes of stock of such

24       corporation;

25               “(11) the capital interest or profits

079910.087

89

S.I.C.

1 interest of such partnership; or  
2 "(iii) the beneficial interest of such trust  
3 or estate,  
4 is owned directly or indirectly, or held by a person  
5 described in subclause (A), (B), (C), or (E) of this  
6 clause; and  
7 "(3) the term 'person' means an individual,  
8 partnership, joint venture, corporation, mutual company,  
9 joint-stock company, trust, estate, unincorporated  
10 organization, association, or labor organization.  
11 "(b)(1) A fiduciary shall discharge his responsibilities  
12 with respect to the Thrift Savings Fund or applicable portion  
13 thereof solely in the interest of the participants and  
14 beneficiaries and--  
15 "(A) for the exclusive purpose of--  
16 "(i) providing benefits to participants and  
17 their beneficiaries; and  
18 "(ii) defraying reasonable expenses of  
19 administering the Thrift Savings Fund or applicable  
20 portions thereof;  
21 "(B) with the care, skill, prudence, and diligence  
22 under the circumstances then prevailing that a prudent  
23 man acting in a like capacity and familiar with such  
24 matters would use in the conduct of an enterprise of a  
25 like character and with like objectives; and

079910.087

S.I.C.

90

1       “(C) to the extent permitted by section 8427 of this  
2 title, by diversifying the investments of the Thrift  
3 Savings Fund or applicable portions thereof so as to  
4 minimize the risk of large losses, unless under the  
5 circumstances it is clearly prudent not to do so.

6       “(2) No fiduciary may maintain the indicia of ownership  
7 of any assets of the Thrift Savings Fund outside the  
8 jurisdiction of the district courts of the United States.

9       “(c)(1) A fiduciary shall not cause the Thrift Savings  
10 Fund or any portion thereof to engage in a transaction, if  
11 the fiduciary knows or should know that such transaction  
12 constitutes a direct or indirect--

13       “(A) sale or exchange, or leasing, of any property  
14 between the Thrift Savings Fund and a party in interest;

15       “(B) lending of money or other extension of credit  
16 between the Thrift Savings Fund and a party in interest;

17       “(C) furnishing of goods, services, or facilities  
18 between the Thrift Savings Fund and a party in interest;

19 or

20       “(D) transfer to, or use by or for the benefit of, a  
21 party in interest, of any assets of the Thrift Savings  
22 Fund.

23       “(2) A fiduciary shall not--

24       “(A) deal with any assets of the Thrift Savings Fund  
25 in his own interest or for his own account;

079910.087

S.I.C.

91

1       “(B) act, in his individual or any other capacity,  
2       in any transaction involving the Thrift Savings Fund for  
3       the benefit of a party (or represent a party) whose  
4       interests are adverse to the interests of the Thrift  
5       Savings Fund or the interests of its participants or  
6       beneficiaries; or

7       “(C) receive any consideration for his own personal  
8       account from any party dealing with such Thrift Savings  
9       Fund in connection with a transaction involving assets of  
10      the Thrift Savings Fund.

11      “(3) For the purposes of this subsection, a transfer of  
12      real or personal property by a party in interest to a plan  
13      shall be treated as a sale or exchange if the property is  
14      subject to a mortgage or similar lien which the plan assumes  
15      or if it is subject to a mortgage or similar lien which a  
16      party-in-interest placed on the property within the 10-year  
17      period ending on the date of the transfer.

18      “(d)(1)(A) Any fiduciary that breaches the  
19      responsibilities, duties, and obligations set out in  
20      subsection (b) of this section or violates subsection (c) of  
21      this section shall be liable to make good to the Thrift  
22      Savings Fund any losses to such fund resulting from each such  
23      breach or violation and to restore to such fund any profits  
24      made by the fiduciary through use of assets of such fund by  
25      the fiduciary, and shall be subject to such other equitable

079910.087

S.I.C.

92

1 or remedial relief as a court considers appropriate. A  
2 fiduciary may be removed for a breach referred to in the  
3 preceding sentence.

4     “(B) The Attorney General of the United States may  
5 assess a civil penalty against a party in interest engaging  
6 in a transaction prohibited by subsection (c) of this  
7 section. The amount of such penalty may not exceed five  
8 percent of the amount involved (as defined in section  
9 4975(f)(4) of the Internal Revenue Code of 1954); except  
10 that, if the transaction is not corrected (in such manner as  
11 the Attorney General shall prescribe by regulation consistent  
12 with section 4975(f)(5) of the Internal Revenue Code of 1954)  
13 within ninety days after the date the Attorney General  
14 transmits notice to the party in interest (or such longer  
15 period as the Attorney General may permit), such penalty may  
16 be in an amount not more than 100 percent of the amount  
17 involved.

18     “(C) A fiduciary shall not be liable under subparagraph  
19 (A) of this paragraph with respect to a breach of fiduciary  
20 duty under subsection (b) of this section committed before  
21 becoming a fiduciary or after ceasing to be a fiduciary.

22     “(2) A civil action may be brought in the district  
23 courts of the United States--

24         “(A) by the Attorney General of the United States--

25             “(1) to determine and enforce a liability under



079910.087

S.I.C.

93

1 paragraph (1)(A) of this subsection; or  
2 "(1) to collect any civil penalty under  
3 paragraph (1)(B) of this subsection; or  
4 "(B) by the Attorney General of the United States,  
5 any participant, former participant, other beneficiary,  
6 or fiduciary--  
7 "(1) to enjoin any act or practice which  
8 violates any provision of subsection (b) or (c) of  
9 this section; or  
10 "(1) to obtain any other appropriate equitable  
11 relief to redress a violation of any such provision.  
12 "(3) An action may not be commenced under paragraph (2)  
13 of this subsection with respect to a fiduciary's breach of  
14 any responsibility, duty, or obligation under subsection (b)  
15 of this section or a violation of subsection (c) of this  
16 section after the earlier of--  
17 "(A) six years after (1) the date of the last action  
18 which constituted a part of the breach or violation, or  
19 (1) in the case of an omission, the latest date on which  
20 the fiduciary could have cured the breach or violation;  
21 or  
22 "(B) three years after the earliest date on which  
23 the plaintiff had actual knowledge of the breach or  
24 violation; except that, in the case of fraud or  
25 concealment, such action may be commenced not later than

079910.087

S.I.C.

94

1 six years after the date of discovery of such breach or  
2 violation.''.  
3

4 (b) The table of chapters at the beginning of part III of  
5 such title is amended by inserting after the item relating to  
6 chapter 83 the following new item:

7 ``84. Civil Service Pension System. . . . . 8401''.  
8

9 TITLE II--AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954 AND  
10 THE SOCIAL SECURITY ACT  
11

12 AMENDMENTS RELATING TO SOCIAL SECURITY  
13

14 Sec. 201. (a) Section 210(a)(5) of the Social Security  
15 Act is amended--  
16

17 (1) by striking out ``or'' at the end of subparagraph  
18 (F);  
19

20 (2) by striking out the semicolon at the end of  
21 subparagraph (G) and inserting in lieu thereof `` , or'';  
22 and  
23

24 (3) by adding at the end thereof the following new  
subparagraph:  
25

26 `` (H) service performed by an individual after  
27 such individual has transferred to or commenced  
28 participation in the Civil Service Pension System  
29 pursuant to section 8471 of title 5, United States  
30 Code;''.

31 (b) Section 3121(b)(5) of the Internal Revenue Code of  
32 1954 is amended--  
33

079910.087

95

S.I.C.

1 (1) by striking out ``or`` at the end of subparagraph  
2 (F);

3 (2) by striking out the semicolon at the end of  
4 subparagraph (G) and inserting in lieu thereof `` , or ``;  
5 and

6 (3) by adding at the end thereof the following new  
7 subparagraph:

8 `` (H) service performed by an individual after  
9 such individual has transferred to or commenced  
10 participation in the Civil Service Pension System  
11 pursuant to section 8471 of title 5, United States  
12 Code; ``.

13 TITLE III--MISCELLANEOUS AND CONFORMING AMENDMENTS

14 PAY RETENTION FOR CERTAIN DISABLED EMPLOYEES

15 Sec. 301. Section 5363(a) of title 5, United States Code,  
16 is amended--

17 (1) by striking out ``or`` at the end of paragraph  
18 (2);

19 (2) by redesignating paragraph (3) as paragraph (4);  
20 and

21 (3) by inserting before paragraph (4), as  
22 redesignated by clause (2), the following new paragraph  
23 (3):

24 `` (3) who--

25 `` (A) is removed from a position subject to this

079910.087

S.I.C.

96

1 subchapter by reason of being disabled (for the  
2 purposes of subchapter V of chapter 84 of this  
3 title); and

4 "(B) is placed in another position which is  
5 subject to this subchapter and is in a lower grade  
6 than the previous position; or".

7 MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF TITLE 5, UNITED  
8 STATES CODE

9 Sec. 302. (a) Section 8331(1)(G) of title 5, United  
10 States Code, is amended to read as follows:

11 "(G) an individual first employed by the  
12 government of the District of Columbia before the  
13 effective date of the Civil Service Pension Reform  
14 Act of 1985;".

15 (b) Section 8332 of such title is amended by adding at  
16 the end thereof the following new subsections:

17 "(n)(1) Except as provided in section 8473(b)(1) of this  
18 title, service performed by a participant in the Civil  
19 Service Pension System under chapter 84 of this title is not  
20 creditable under this section.

21 "(2) Service creditable under this section and  
22 transferred for credit to the Civil Service Pension System  
23 under chapter 84 of this title is not creditable under this  
24 section.".

25 (c) Subsection (a) of section 8334 of such title is

079910.087

S.I.C.

97

1 amended--

2 (1) in the first sentence of paragraph (1), by  
3 striking out "The employing" and inserting in lieu  
4 thereof "Except as provided in paragraph (3) of this  
5 subsection, the employing"; and

6 (2) by, adding at the end thereof the following new  
7 paragraph:

8 "(3)(A) In the case of an employee or Member who was  
9 subject to this subchapter before January 1, 1984, and whose  
10 service--

11 "(1) is employment for the purposes of title II of  
12 the Social Security Act and chapter 21 of the Internal  
13 Revenue Code of 1954; and

14 "(11) is not creditable service for any purpose  
15 under chapter 84 of this title,

16 an employing agency shall deduct and withhold from the basic  
17 pay of the employee or Member under paragraph (1) of this  
18 subsection during any pay period only the amount computed  
19 pursuant to subparagraph (B) of this paragraph.

20 "(B) The amount deducted and withheld from basic pay  
21 during any pay period pursuant to subparagraph (A) of this  
22 paragraph in the case of an employee or Member referred to in  
23 such subparagraph shall be the excess, if any, of--

24 "(1) the amount that would be deducted and withheld  
25 under paragraph (1) of this subsection but for this

079910.087

S.I.C.

98

1 paragraph, over

2       “(11) the amount of the employment taxes deducted  
3 and withheld from the basic pay of the employee or Member  
4 for the pay period pursuant section 3101(a) of the  
5 Internal Revenue Code of 1954.”.

6       .(d) The first sentence of section 8334(d) of such title  
7 is amended by inserting after “subchapter” the following:  
8       “, other than an employee or Member who is a participant in  
9 the Civil Service Pension System under chapter 84 of this  
10 title,”.

11       (e) Section 8339 of such title is amended by adding at  
12 the end thereof the following new subsection:

13       “(o)(1) Effective on the first day of the month in which  
14 an annuitant or a survivor becomes 62 years of age, the  
15 annuity or survivor annuity computed under the other  
16 subsections of this section shall be reduced by an amount  
17 equal to the amount (if any) by which the annuitant's or  
18 surviving annuitant's benefit under title II of the Social  
19 Security Act exceeds the amount of such benefit to which he  
20 would be entitled if the service described in paragraph (2)  
21 of this subsection were not taken into account.

22       “(2) The service described in this paragraph is the  
23 civilian service that is covered by amounts deducted and  
24 withheld as provided in section 8334 (a) (3) of this title  
25 and is taken into account for the purpose of computing--

079910.087

99

S.I.C.

1           “(A) the annuity or survivor annuity; and  
2           “(B) benefits under such title of the Social  
3       Security Act.”.

4       CONFORMING PROVISIONS FOR OTHER RETIREMENT SYSTEMS  
5       Sec. 303. (a) Section 803 of the Foreign Service Act of  
6       1980 (22 U.S.C. 4043) is amended by adding at the end thereof  
7       the following new subsection:

8       “(d) Notwithstanding any other provision of this  
9       section, a participant in the Civil Service Pension System  
10      under chapter 84 of title 5, United States Code, may not be a  
11      participant in the Foreign Service Retirement and Disability  
12      System under this title.”.

13      (b) Section 203 of the Central Intelligence Agency  
14      Retirement Act of 1964 for Certain Employees (50 U.S.C. 403  
15      note) is amended by adding at the end thereof the following  
16      new sentence: “A participant in the Civil Service Pension  
17      System under chapter 84 of title 5, United States Code, may  
18      not be a participant in the Central Intelligence Agency  
19      Retirement and Disability System under this Act.”.

20      (c) Section 1005(d) of title 39, United States Code, is  
21      amended to read as follows:

22      “(d) Officers and employees of the Postal Service (other  
23      than the Governors) shall be covered by chapters 83 and 84 of  
24      title 5 according to the provisions of such chapters. The  
25      Postal Service shall withhold from pay and shall pay into the

079910.087

S.I.C.

100

1 Civil Service Retirement and Disability Fund the amounts  
 2 specified in or determined under such chapter 83. The Postal  
 3 Service shall pay into the Civil Service Retirement and  
 4 Disability Fund the amounts specified or determined under  
 5 subchapters II and V of such chapter 84. The Postal Service  
 6 shall pay into the Civil Service Thrift Savings Fund the  
 7 amounts specified in or determined under subchapter III of  
 8 such chapter 84.''.  
 9

#### HEALTH BENEFIT PLAN ELIGIBILITY FOR FORMER SPOUSES

10 Sec. 304. (a) Section 8901(10) of title 5, United States  
 11 Code, is amended--

12 (1) in subparagraph (C)(i)--

13 (A) by inserting ``or 8457'' after ``8345(j)'';

14 and

15 (B) by inserting ``or 8434'' after ``8341(h)'';

16 and

17 (2) in subparagraph (C)(ii)--

18 (A) by inserting ``or 8434'' after ``8341(h)'';

19 and

20 (B) by inserting ``or 8457'' after ``8345(j)''.

21 (b) Paragraph (1) of section 8905(c) of such title is  
 22 amended--

23 (1) in subparagraph (B), by inserting ``or

24 8435(a)(1)''; and

25 (2) in the second sentence--



079910.087

101

S.I.C.

1 (A) by inserting ``or 8434`` after ``8341(h)``;

2 and

3 (B) by inserting ``or 8457`` after ``8345(j)``.

4 TITLE IV--AUTHORIZATION AND EFFECTIVE DATES

5 FIRST YEAR EXPENSES OF THE BOARD

6 Sec. 401. (a) Notwithstanding section 8426(c)(3) of title  
7 5, United States Code (as added by section 101 of this Act),  
8 the expenses incurred in the administration of the Civil  
9 Service Thrift Investment Board established by section  
10 8491(a) of such title (as added by section 101 of this Act)  
11 during fiscal year 1986 shall be paid from sums appropriated  
12 pursuant to subsection (b).

13 (b) There are authorized to be appropriated to the Civil  
14 Service Thrift Investment Board, for fiscal year 1986, such  
15 sums as may be necessary to pay the expenses incurred in the  
16 administration of the Civil Service Thrift Investment Board  
17 during such fiscal year.

18 EFFECTIVE DATES

19 Sec. 402. (a) Except as provided in subsection (b) or  
20 (c), this Act and the amendments made by this Act shall take  
21 effect 180 days after the date of enactment.

22 (b) Subchapter VIII of chapter 84 of title 5, United  
23 States Code (relating to the Civil Service Thrift Investment  
24 Board), as added by section 101, shall take effect on the  
25 date of enactment.